

NOTICE OF PUBLIC

HEARING

The Lewis and Clark Board of County Commissioners will hold a public meeting on Tuesday, June 1, 1999 at 9:00 a.m., in Room 330 on the third floor of the City-County Building, 318 North Park Avenue, Helena, Montana, to consider the following:

1. Proposed revisions to the Lewis and Clark County Subdivision Regulations due to action taken by the 1999 Montana Legislature amending the Montana Subdivision and Platting Act. The proposed changes would amend the time frame for the County subdivision review process from 35 days for a minor subdivision and 60 days for a major subdivision to 35 working days and 60 working days respectively. These changes would amend Sections III A, B, IV C, 3, VI A, 4, and Table 1, Table 3 and Table 4 of the Lewis and Clark County Subdivision Regulations. The following language would be added to Section III A.10:

The governing body shall approve, conditionally approve, or disapprove the preliminary plat of a major subdivision within sixty (60) working days of its presentation.

The following language would be added to Chapter IV C.6:

The governing body shall approve or disapprove the preliminary plat of a minor subdivision within thirty-five (35) working days of its presentation.

For further information, contact the Lewis and Clark County Planning Department, P. O. Box 1725, Helena, MT 59624. Phone: 447-8374. May 16, 1999

**AFFIDAVIT OF PUBLICATION  
STATE OF MONTANA,  
County of Lewis & Clark,**

Sharon L. Dietrich

Being duly sworn, deposes and says:

That she is the principal clerk of the Independent Record a newspaper of general circulation published daily in the City of Helena, in the County of Lewis & Clark, State of Montana, and has charge of the advertisement thereof:

That the Notice Of Public Hearing

a true copy of which is hereto annexed, was published in said newspaper on the following dates: viz:

May 16, 1999

making in all 1 publication(s).

*Sharon L. Dietrich*

Subscribed and sworn to before me this 24 day of May, 1999.

*Sharon L. Dietrich*  
NOTARY PUBLIC for the State of Montana  
Residing at Helena, Montana

My commission expires 1-15-02

(NOTARIAL SEAL)



**RESOLUTION TO AMEND THE SUBDIVISION REGULATIONS  
FOR LEWIS AND CLARK COUNTY**

WHEREAS, local governing bodies are required to adopt subdivision regulations, pursuant to Section 76-3-501, MCA; and,

WHEREAS, revised subdivision regulations have been drafted in accordance with the provisions of the Montana Subdivision and Platting Act (Title 76, Chapter 3, MCA), as amended by the 1999 Legislature, and include modification to the subdivision review time frame by changing the time frame from calendar days to working days; and,

WHEREAS, after due and proper notice the Board of County Commissioners of Lewis and Clark County conducted a public hearing on June 1, 1999, for the purpose of reviewing the revised subdivision regulations, and hearing the public comment thereon; and

WHEREAS, the Board of County Commissioners reviewed the revised subdivision regulations and all of the elements and related documents, and heard and considered all comments in regard to the same; and

WHEREAS, the Board of County Commissioners convened on June 1, 1999, to discuss all relevant subject matter and acted to approve the revised subdivision regulations.

NOW, THEREFORE BE IT RESOLVED, that the following revisions to the Subdivision Regulations of Lewis and Clark County together with all of the elements, are hereby adopted by the Board of County Commissioners of Lewis and Clark County, Montana:

Changes to Section III.A.10:

The governing body shall approve, conditionally approve, or disapprove the preliminary plat of a major subdivision within sixty (60) working days of it's presentation.

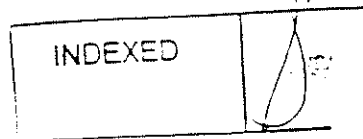
Changes to Chapter IV.C.6:

The governing body shall approve, conditionally approve, or disapprove the preliminary plat of a minor subdivision within thirty-five (35) working days of it's presentation.

DATED this 1<sup>st</sup> day of June, 1999.

BOARD OF COUNTY COMMISSIONERS  
LEWIS AND CLARK COUNTY

*Michael J. Griffith*  
Michael J. Griffith, Chairman



ATTEST:

*Paulette DeHart*  
Paulette DeHart, Clerk of the Board

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LEWIS & CLARK COUNTY  
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BY *Shirley M. Atch*  
*let Noyce*

**RESOLUTION TO AMEND THE SUBDIVISION REGULATIONS  
FOR LEWIS AND CLARK COUNTY**

WHEREAS, local governing bodies are required to adopt subdivision regulations, pursuant to Section 76-3-501, MCA; and,

WHEREAS, revised subdivision regulations have been drafted in accordance with the provisions of the Montana Subdivision and Platting Act (Title 76, Chapter 3, MCA), as amended by the 1997 Legislature, and include a revision of Section X.11.h. drafted by the County Planning Department; and,

WHEREAS, after due and proper notice the Helena/Lewis and Clark Consolidated Planning Board conducted a public hearing on November 4, 1997, for the purpose of reviewing the revised subdivision regulations and hearing the public comment thereon, and recommended approval of said regulations; and,

WHEREAS, after due and proper notice the Board of County Commissioners of Lewis and Clark County conducted a public hearing on November 18, 1997, for the purpose of reviewing the revised subdivision regulations, the Planning Board recommendations, and hearing the public comment thereon; and,

WHEREAS, the Board of County Commissioners reviewed the revised subdivision regulations and all of the elements and related documents, and heard and considered all comments in regard to the same; and,

WHEREAS, the Board of County Commissioners convened on November 18, 1997, to discuss all relevant subject matter and acted to approve the revised subdivision regulations.

NOW, THEREFORE BE IT RESOLVED, that the revisions to the Subdivision Regulations of Lewis and Clark County together with all of the elements, are hereby adopted by the Board of County Commissioners of Lewis and Clark County, Montana.

BE IT FURTHER RESOLVED that this Resolution shall be deemed adopted as of its original passage on November 18, 1997, ~~nunc pro tunc~~.

DATED this 18 day of November, 1998.

BOARD OF COUNTY COMMISSIONERS  
LEWIS AND CLARK COUNTY

ATTEST:

Paulette DeHart  
Paulette DeHart, Clerk of the Board

Michael A. Murray 3/17/98  
Michael A. Murray, Chairman

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PAULETTE DEHART CLK & REC  
LEWIS & CLARK CO

**RESOLUTION TO REVISE THE SUBDIVISION REGULATIONS  
OF LEWIS AND CLARK COUNTY**

WHEREAS, certain sections of the Subdivision Regulations of Lewis and Clark County (subdivision regulations) have been revised pursuant to the requirements and procedures set forth in the Montana Subdivision and Platting Act, Title 76, Chapter 3, MCA, and the provisions of Section II. C. of the subdivision regulations; and,

WHEREAS, the revisions included changes in Appendix A (Fee Schedule) to require an additional fee for review of non-residential units, and in Appendix B (Preliminary Plat Form, Contents, and Supplements) to require a subdivider proposing lots for non-residential development to submit more detailed site plans, specifically identifying types of development activities permitted and specific design plans; and,

WHEREAS, after due and proper notice the Helena/Lewis and Clark Consolidated Planning Board conducted a public hearing on January 7, 1997, for the purpose of reviewing the revisions to sections of the subdivision regulations and receiving public comment thereon, at which no persons testified, and recommended approval of said revisions; and,

WHEREAS, after due and proper notice the Board of County Commissioners conducted a public hearing on January 21, 1997, for the purpose of reviewing the revisions to sections of the subdivision regulations and receiving public comment thereon, at which no persons testified; and,

WHEREAS, the Board of County Commissioners convened on January 23, 1997 to make a decision on the revisions and adopted the revisions to sections of the subdivision regulations.

NOW, THEREFORE, BE IT RESOLVED that the following revisions to the Subdivision Regulations of Lewis and Clark County are hereby adopted by the Board of County Commissioners of Lewis and Clark County, Montana:

A) Changes in Appendix A - Fee Schedule

A fee of \$50 per non-residential unit in addition to the base fee for subdivision review.

B) Changes in Appendix B, Preliminary Plat Form, Contents, and Supplements

4. Additional Supplements for Non-residential Units

Applications for non-residential units shall include a list of specific non-residential activities which would be allowed within the subdivision and any activities expressly prohibited.

Applications for non-residential units shall include a detailed scaled site plan and accompanying text showing and describing the following:

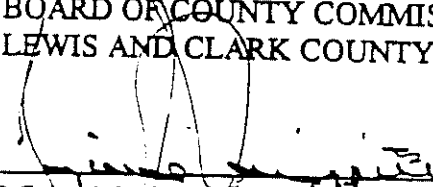
- a) location, dimensions, height, and area of all structures;

- b) location, dimensions, area, and plant descriptions of all landscaping features;
- c) location, dimensions, height, area, lighting, and construction of all signs (commercial and traffic control);
- d) location, dimensions, and capacity of all drainage facilities;
- e) location and dimensions of roadways, parking lots, road approaches, and other driveways;
- f) location and number of all parking spaces, including handicapped parking (where applicable);
- g) roadway and parking lot construction cross sections;
- h) traffic generation estimates by each non-residential activity;
- i) preliminary water and wastewater designs to be submitted to the Montana Department of Environmental Quality and the City-County Health Department.

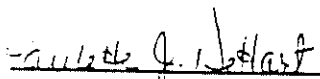
BE IT FURTHER RESOLVED, that this Resolution shall be deemed adopted as of its original passage on January 23, 1997, nunc pro tunc.

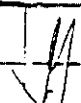
DATED this 12 day of June, 1997.

BOARD OF COUNTY COMMISSIONERS  
LEWIS AND CLARK COUNTY

  
Michael J. Griffith, Chairman

ATTEST:

  
Paulette J. DeHart, Clerk of Board

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IN Shirley Medford  
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PAULETTE DEHART CLK & REC  
LEWIS & CLARK CO

RESOLUTION TO ADOPT REVISED SUBDIVISION REGULATIONS  
FOR LEWIS AND CLARK COUNTY

WHEREAS, local governing bodies are required to adopt subdivision regulations, pursuant to Section 76-3-501, MCA; and,

WHEREAS, revised subdivision regulations have been drafted in accordance with the provisions of the Montana Subdivision and Platting Act (Title 76, Chapter 3, MCA), as amended by the 1995 Legislature, and include additional administrative, procedural, and substantive revisions drafted by the County Planning Department; and,

WHEREAS, after due and proper notice the Helena/Lewis and Clark Consolidated Planning Board conducted a public hearing on September 13, 1995, for the purpose of reviewing the revised subdivision regulations and hearing the public comment thereon, and recommended approval of said regulations with amendments; and,

WHEREAS, after due and proper notice the Board of County Commissioners of Lewis and Clark County conducted a public hearing on September 26, 1995, for the purpose of reviewing the revised subdivision regulations, the Planning Board recommendations, and hearing the public comment thereon; and

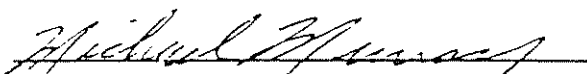
WHEREAS, the Board of County Commissioners reviewed the revised subdivision regulations and all of the elements and related documents, and heard and considered all comments in regard to the same; and

WHEREAS, the Board of County Commissioners convened on October 5, 1995, to discuss all relevant subject matter, took actions to further amend portions of the revised subdivision regulations, and acted to approve the revised subdivision regulations, as amended.

NOW, THEREFORE BE IT RESOLVED, that the revisions to the Subdivision Regulations of Lewis and Clark County together with all of the elements, as amended, are hereby adopted by the Board of County Commissioners of Lewis and Clark County, Montana.

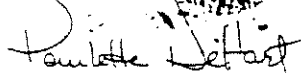
DATED this 26 day of October, 1995.

BOARD OF COUNTY COMMISSIONERS  
LEWIS AND CLARK COUNTY

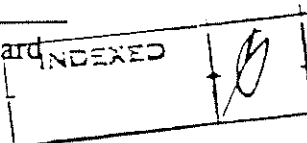
  
Michael A. Murray, Chairman

539564  
PAULETTE DEHART CLK & REC  
LEWIS & CLARK CO  
HELENA, MT

ATTEST:



Paulette DeHart, Clerk of the Board  
FILE: 2714 SubReg95.Res



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BY Shirley McDade  
No fee





**SUBDIVISION REGULATIONS  
OF  
LEWIS AND CLARK COUNTY**

**Prepared by  
Lewis and Clark County Planning Department**

**June 1999**



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LEWIS AND CLARK COUNTY  
SUBDIVISION REGULATIONS

I. GENERAL PROVISIONS

A. Title

These regulations shall be known and may be cited as "The Subdivision Regulations of Lewis and Clark County".

B. Authority

Authorization for these subdivision regulations is contained in the Montana Subdivision and Platting Act (Title 76, Chapter 3, MCA).

C. Purpose

The purposes of these regulations are to promote the public health, safety, and general welfare and to provide for:

1. The orderly development of the jurisdictional area.
2. The coordination of roads within subdivided land with other roads, both existing and planned.
3. The dedication of road easements and public utility easements.
4. The avoidance or minimization of congestion in the streets and the improvement of roads.
5. The provision of adequate open spaces for light, air, parks, and recreation.
6. The provision of adequate transportation, potable water, drainage, and sanitary facilities.
7. The protection of property values and any rights of property owners.
8. The avoidance of subdivision which would involve unnecessary environmental degradation.
9. The encouragement of subdivision development in harmony with the natural environment.
10. The avoidance of danger or injury to public health, safety and welfare by reason of natural or other physical hazard, or the lack of water, sanitation, drainage, access, transportation, utilities, fire protection, or other public services.
11. The avoidance of excessive expenditure of public funds for the supply of public services.

12. The manner and form of preparing and filing of any plat or certificate of survey for subdivided lands.

13. The administration of these regulations by defining the powers and duties of approving authorities including procedures for the review and approval of all proposed plats and site plans of subdivisions covered by these provisions.

**D. Jurisdiction**

These regulations govern the subdivision of land within the jurisdictional area of the governing body of Lewis and Clark County.

If a proposed subdivision lies within one mile of a third class city or town or within two miles of a second class city or within three miles of a first class city, the County governing body must submit the preliminary plat to the city or town governing body or its designated agent for review and comment. If a proposed subdivision lies partly within an incorporated city or town, or partly within an adjacent County, the preliminary plat must be submitted to and approved by both the city or town and the county governing bodies. Helena is a first class city, East Helena is a third class town.

These regulations supplement all other regulations, and where they are at variance with other laws, regulations, ordinances, or resolutions, the more restrictive requirements shall apply.

**E. Severability**

Where any word, phrase, clause, sentence, paragraph, or section, or other part of these regulations is held invalid by a court of competent jurisdiction, such judgement shall affect only that part held invalid.

## II. ADMINISTRATIVE PROVISIONS

### A. Schedule of Fees

A schedule of fees, charges and expenses to be paid by the subdivider to defray the expense of subdivision review, and any inspections necessary for plat approval is contained in APPENDIX A of these regulations. The schedule of fees shall be posted in the county planning department. No action shall be taken on applications or appeals until all application fees have been paid in full. Applications for subdivision review shall not be accepted unless accompanied by all applicable fees.

### B. Variance

#### 1. Hardship

The governing body may grant variances from Section X. DESIGN AND IMPROVEMENT STANDARDS of these regulations when strict compliance would result in undue hardship and when it is not essential to the public welfare. Such variances shall not have the effect of nullifying the intent and purpose of these regulations. The governing body may not by variance permit subdivision for building purposes in areas located within the floodway of a flood of 100-year frequency as defined by Title 76, Chapter 5, MCA. The governing body shall not approve variances unless it makes findings based upon the evidence in each specific case that:

- a. The granting of the variance will not be detrimental to the public health, safety, or general welfare, or injurious to other adjoining properties;
- b. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, an undue hardship to the owner would result if the strict letter of these regulations is enforced;
- c. The variance will not cause a substantial increase in public costs; and
- d. The variance will not in any manner place the subdivision in nonconformance with any adopted zoning regulations or comprehensive plan.

Innovative designs that address energy conservation, transportation efficiency, affordable housing, ADA accessibility, or preservation of the natural environment which do not circumvent the purpose of these regulations may be reasons for granting of a variance by the governing body.

#### 2. Procedure

The subdivider shall include with the submission of the application a written statement describing any requested variances and the facts of

hardship upon which the request for each variance is based. The planning board and governing body shall consider each requested variance at the public meeting or hearing on the preliminary plat of a major subdivision. In the case of all minor subdivisions, the governing body shall consider each requested variance at the public meeting on the preliminary plat or site plan.

3. Conditions

In granting variances, the governing body may impose such conditions as will, in its judgment, secure substantially the objectives of these regulations.

4. Statement of Facts

When any such variance is granted, the motion of approval of the proposed subdivision shall contain a statement describing each variance and the facts and conditions upon which the issuance of each variance is based.

C. Amendment of Regulations

Before the governing body amends these regulations it may seek recommendation from the planning board and shall hold a public hearing. It shall give public notice of its intent to amend these regulations and of the public hearing by publishing notice of the time and place of the hearing in a newspaper of general circulation in the county not less than 15 nor more than 30 days prior to the date of the hearing.

D. Enforcement, Violation and Penalties, Remedies

1. Enforcement

a. Every final subdivision plat must be filed for record with the county clerk and recorder before title to the subdivided land can be sold or transferred in any manner (except as noted in Section III A.2. of these regulations). Subdivisions created by rent, lease or other conveyance must have received final approval and be filed in the planning office prior to transfer or occupancy in any manner.

b. The planning director shall serve as the designated agent of the governing body for the jurisdictional area. The director shall have the authority to administer, interpret, and enforce the Montana Subdivision and Platting Act and these regulations. Decisions of the planning director may be appealed to the governing body.

c. The county attorney may commence action to enjoin any unlawful action or compel compliance with all provisions of the Montana Subdivision and Platting Act and these regulations. (The cost of such action shall be borne by the losing party.)



## 2. Violations and Penalties

Any person, firm, corporation, or other entity who violates any of the provisions of the Montana Subdivision and Platting Act or these regulations shall be guilty of a misdemeanor punishable by a fine of not less than \$100.00 nor more than \$500.00 or by imprisonment in jail for not more than three months or by both fine and imprisonment. Each sale, lease or transfer, or offer of sale, lease, or transfer of each separate parcel of land in violation of any provision of the Montana Subdivision and Platting Act or these regulations shall be deemed a separate and distinct offense.

## 3. Remedies

A party who is aggrieved by a decision of the governing body to approve, conditionally approve, or disapprove a proposed preliminary plat or final subdivision plat may, within 30 days after the decision, appeal the decision to the district court. The petition to the court must specify the grounds upon which the appeal is made.

The following parties may appeal the decision of the governing body:

- a. the subdivider;
- b. a landowner with a property boundary contiguous to the proposed subdivision or a private landowner with property within the county, if that landowner can show a likelihood of material injury to the landowner's property or its value;
- c. the county commissioners of the county where the subdivision is proposed; and
- d. (i) a first-class municipality, as described in 7-1-4111, if a subdivision is proposed within 3 miles of its limits;  
(ii) a second-class municipality, as described in 7-1-4111, if a subdivision is proposed within 2 miles of its limits; and  
(iii) a third-class municipality or a town, as described in 7-1-4111, if a subdivision is proposed within 1 mile of its limits.

A person who has filed with the governing body an application for a subdivision under this chapter may bring an action in district court to sue the governing body to recover actual damages caused by a final action, decision, or order of the governing body or a regulation adopted pursuant to this chapter that is arbitrary or capricious.

### III. PROCEDURES FOR MAJOR SUBDIVISIONS

#### A. Plat Review and Approval

##### 1. Construction Timing

No subdivider shall proceed with any construction work on the proposed subdivision, including grading or excavation relating to public improvements, until he or she has obtained from the governing body preliminary approval of the proposed subdivision plat.

##### 2. Transfers of Title

Except as noted below, a final subdivision plat must be filed for record with the county clerk and recorder before title to the subdivided land can be sold or transferred in any manner. After the preliminary plat of a subdivision has been approved or conditionally approved, the subdivider may enter into contracts to sell lots in the proposed subdivision if all of the following conditions are met:

- a. That under the terms of the contracts the purchasers of lots in the proposed subdivision make any payments to an escrow agent which must be a bank or savings and loan association chartered to do business in the State of Montana;
- b. That under the terms of the contracts and the escrow agreement the payments made by purchasers of lots in the proposed subdivision may not be distributed by the escrow agent to the subdivider until the final plat of the subdivision is filed with the county clerk and recorder;
- c. That the contracts and the escrow agreement provide that if the final plat of the proposed subdivision is not filed with the county clerk and recorder within two years of the preliminary plat approval, the escrow agent shall immediately refund to each purchaser any payments made under the contract; and
- d. That the contracts contain the following language conspicuously set out therein: "The real property which is the subject hereof has not been finally platted, and until a final plat identifying the property has been filed with the county clerk and recorder, title to the property cannot be transferred in any manner."
- e. That the county treasurer has certified that all real property taxes and special assessments assessed and levied on the land to be subdivided have been paid.
- f. A copy of the contracts and escrow agreement described above shall be submitted to the county planning staff.

### 3. Pre-application Procedures

The subdivider shall schedule a meeting with the planning staff prior to submitting the required preliminary plat. This meeting is required and must be held no more than one hundred twenty (120) days prior to submittal of a preliminary plat application. The purpose of this meeting is to discuss these regulations and standards and other pertinent planning documents, to familiarize the subdivider with the applicable goals and objectives of Lewis and Clark County, and to discuss the proposed subdivision as it relates to these matters. The planner shall notify the subdivider of the option of concurrent review of the subdivision by the local health department and the Montana Department of Environmental Quality. The subdivider should provide a sketch plan of the proposed subdivision for review and discussion. The sketch plan should be legibly drawn showing in simple form the layout of proposed features in relation to existing conditions. The sketch plan may be a freehand sketch made directly on a print of a topographic map. Scale dimensions may be noted. The sketch plan should include pertinent information such as: approximate tract and lot boundaries, location of easements, utilities, rights-of-way, parks and open spaces, and a description of general terrain, natural features, existing structures and improvements, and proposed public improvements.

### 4. Preliminary Plat

The subdivider shall submit for review and approval a preliminary plat of the proposed subdivision which conforms to the requirements of these regulations. The preliminary plat shall be prepared in form and with contents and supplements as required by APPENDIX B, and conform to design and improvement standards set forth in Section X, of these regulations. If any design features or improvements do not conform with these standards, the subdivider shall submit a written request for variances with the preliminary plat application, pursuant to Section II.B. of these regulations.

The subdivider shall submit a written expressed preference for fulfilling the requirement for park land dedication or cash donation with the preliminary plat application, pursuant to Section X.A.17. of these regulations.

The subdivider may set forth in the preliminary plat application a plan for phased development, including filing of the final plat in a phased manner.

### 5. Permission to Enter

The governing body or its designated agent(s) or agency may conduct such investigations, examinations, and site evaluations as they deem necessary to verify information supplied as a requirement of these regulations, to post notice, or to adequately evaluate the proposal. The submission of pre-application materials or a preliminary plat for review shall constitute a grant of permission to enter the subject property.

In order to facilitate site investigations, the subdivider shall establish visible flagging on the property to delineate the approximate boundaries of the proposed land divisions and major design elements such as access road centerlines or park areas. This flagging must be established at the time of submittal of the preliminary plat application.

6. Preliminary Plat Submission and Distribution

The subdivider shall submit the following application information to the planning staff as one submittal:

- a. Parts I, II, and III of the Montana Department of Environmental Quality/Local Government Joint Application Form, which includes an environmental assessment (see APPENDIX C);
- b. the required review fee as stated in the fee schedule in APPENDIX A;
- c. copies of the preliminary plat or site plan and related supplements;
- d. all supplements as required by APPENDIX B, or as specified at the pre-application conference.

Said application materials must be submitted by the monthly deadline for consideration at the next regularly scheduled planning board meeting.

The planning staff will review the application materials and determine the completeness and sufficiency of the application. This review must be completed within ten (10) working days after receipt of an application. If the application is found to be deficient, the planning staff will provide written notice to the subdivider of the determination, including a summary of the identified deficiencies which are the basis of the determination. An application will not be further processed until a determination of completeness and sufficiency has been made.

The copies of the preliminary plat and supplements will be distributed for the review of local agencies and utilities having a substantial interest in proposed subdivisions. Such agencies may include school, police, sanitarian, road department, fire, utility, and conservation district, local office of the United States Forest Service, Bureau of Land Management, or Soil Conservation Service, and other appropriate bodies. Review by planning staff and public agencies shall not delay the governing body's action beyond the 60 day limit. Any review comments shall be made available upon request. The Planning staff will analyze the application and any comments received from agency personnel and the public. Findings shall be incorporated into a staff report with recommendations to the planning board. The staff report will be available at least five (5) working days prior to the planning board hearing.

7. Exemptions from Environmental Assessment

The requirement for preparing an environmental assessment pursuant to Sections 76-3-504(1) and 76-3-603, MCA, and contained in APPENDIX C shall be waived when all of the following requirements have been met:

- a. The proposed subdivision is totally within an area covered by a master plan adopted pursuant to Section 76-1-606, MCA;
- b. When county zoning with a comprehensive plan has been adopted pursuant to Sections 76-2-201 through 76-2-228, MCA; and
- c. A long-range development program of the public works projects has been adopted pursuant to Section 76-1-601(4), MCA.

The requirement for preparing all or any portion of an environmental assessment may be waived by the planning board when:

- a. The subdivision will contain fewer than ten parcels and less than 20 acres.

When such an exemption is granted, the planning board shall prepare and certify a written statement of the reasons for granting the exemption. A copy of this statement shall accompany the preliminary plat of the subdivision when it is submitted to the governing body for review.

8. Public Hearing

After planning staff accepts a preliminary plat application as complete, the planning board shall hold a public hearing on the preliminary plat. When a proposed subdivision is also proposed to be annexed to a municipality, the planning board may hold joint hearings with the governing body of the municipality on the preliminary plat and annexation. Notice of the time and date of the hearing shall be given by publication in a newspaper of general circulation in the county not less than 15 days prior to the date of the hearing. The subdivider and each property owner of record immediately adjoining the land included in a plat shall be notified of the hearing by certified or registered mail not less than 15 days prior to the date of the hearing. The planning staff may require the posting of the notice of the hearing at conspicuous places on the boundaries of the proposed subdivision. When a hearing is held by the planning board, the planning board shall act in an advisory capacity and recommend to the governing body the approval, conditional approval, or disapproval of the plat. This recommendation must be submitted to the governing body in writing not later than ten (10) working days after the public hearing. A copy of this recommendation shall also be mailed to the subdivider.

9. Recommendation for Preliminary Plat Approval or Disapproval

The planning board shall:

a. Consider the following:

- 1) relevant evidence relating to the public health safety, and welfare, including the environmental assessment, staff report, and other related documents;
- 2) any officially adopted comprehensive plan for the area involved;
- 3) the review criteria as stated in Section III.A.10.; and
- 4) whether the preliminary plat conforms to the provisions of:
  - a) the Montana Subdivision and Platting Act;
  - b) these regulations;
  - c) applicable zoning regulations and/or any officially adopted comprehensive plan for the area involved; and
  - d) other regulations in effect in the area of the proposed subdivision.

b. Within ten (10) working days of the public hearing, submit in writing, to the governing body the following :

- 1) its findings regarding the items under Section a. above;
- 2) recommended findings of fact which weigh the review criteria pursuant to Section 76-3-608, MCA; and
- 3) a recommendation for approval, conditional approval, or disapproval of the plat. A copy of this recommendation shall also be mailed to the subdivider.

#### 10. Governing Body Action on Preliminary Plat

The governing body may, at its discretion, or at the request of any interested party, hold a public hearing on the proposed major subdivision. Notice requirements in Section III.A.8. shall apply if a hearing is held.

The basis for the governing body's decision to approve, conditionally approve, or disapprove a subdivision shall be whether the development of the subdivision would meet the requirements of the Montana Subdivision and Platting Act, and these local subdivision regulations, based upon the following:

- a. the preliminary plat application and supplements;
- b. environmental assessment (Joint Application Form);
- c. planning board recommendation;
- d. staff report and related information; and
- e. additional information.

The governing body shall issue written findings of fact that weigh the following criteria:

- a. effects on agriculture and agricultural water user facilities;
- b. effects on cultural and historic resources;
- c. effects on local services;
- d. effects on the natural environment;
- e. effects on wildlife and wildlife habitat;
- f. effects on the public health and safety;
- g. compliance with the survey requirements of the MSPA and these regulations;
- h. compliance with the regulations and review procedures of these regulations;
- i. provision of easements for the location and installation of utilities;
- j. provision of legal and physical access to each parcel within the subdivision and the notation of that access on the applicable plat; and
- k. conformance with applicable zoning or other regulations in effect and/or any officially adopted comprehensive plan for the area involved.

If the governing body approves, conditionally approves or disapproves the preliminary plat, it shall inform the applicant of the decision in writing, stating the reasons for disapproval or enumerating the conditions of approval. This letter shall be mailed not more than ten (10) working days after the public meeting where action was taken.

The governing body may require the subdivider to design the subdivision or provide other measures to reasonably minimize potentially significant adverse impacts identified through the review process. The governing body shall consult with the subdivider to develop reasonable mitigation

requirements, giving consideration to the expressed preference of the subdivider. Such requirements must be justified by the written findings of the governing body.

The governing body may withdraw approval of a plat if it determines that information provided by the subdivider, and upon which the decision was based, is inaccurate.

#### 11. Preliminary Plat Approval Period

Upon approving or conditionally approving a preliminary plat, the governing body shall provide the subdivider with a dated and signed statement of approval. This approval shall be in force for not more than one calendar year. At the end of this period the governing body may, at the written request of the subdivider, extend its approval annually for a period not to exceed three (3) calendar years.

After the preliminary plat is approved, the governing body may not impose any additional conditions as a prerequisite to final plat approval, providing said approval is obtained within the original or extended approval period as provided above. However, the subdivider may waive this requirement. Approval of the major subdivision preliminary plat does not constitute approval of the major subdivision final plat.

If the subdivider seeks to modify any condition of approval required by the governing body, or seeks any modification of the preliminary plat/site plan, or seeks any variance, the subdivider must submit a written request and rationale for such modification or variance. No modifications of the preliminary approval statement may be made without the approval of the governing body. The governing body may require that public notice and opportunity for public comment be provided for any substantive modification of conditions required by the governing body. This may include a requirement for a public hearing.

#### 12. Final Plat Contents

The final plat submitted for approval shall conform in all major respects to the preliminary plat as previously reviewed and approved by the governing body and shall incorporate all modifications required in its review.

The final plat shall comply with the Montana Uniform Standards for Final Subdivision Plats, contained in APPENDIX D of these regulations.

#### 13. Final Plat Application

An application for final plat review (available at the county planning department), together with one (1) paper copy of the final plat and supplements shall be submitted to the planning department at least twenty (20) days before a regularly scheduled meeting of the governing body. A final plat must be submitted before the expiration of the preliminary plat approval period. The final plat may constitute only that portion or phase of the approved preliminary plat the subdivider



wishes to file, provided that such portion conforms to all requirements of these regulations and is approved by the governing body in writing. (See Standards for Final Plats, APPENDIX D.) The final plat must have a certification by the county treasurer that all taxes and special assessments assessed and levied (currently due or delinquent) are paid on the land proposed for subdivision.

#### 14. Final Plat Review

The final plat will be reviewed by the planning department, provided that all requirements for the form and content and its supplements are met, to assure that it conforms to the approved preliminary plat. Any significant change may require the holding of a public hearing for review.

The governing body requires that final subdivision plats be reviewed for errors and omissions in calculation or drafting by an examining land surveyor before recording with the clerk and recorder. The subdivider shall bear the cost of this review. When the survey data shown on the plat meet the requirements set forth by the Montana Subdivision and Platting Act and the Montana Uniform Standards for Monumentation and Final Subdivision Plats, the examining land surveyor shall so certify on the plat. No land surveyor having a financial or personal interest in a plat shall act as an examining land surveyor in regard to that plat.

The subdivider shall make any corrections or revisions to the preliminary plat as noted by the planning staff and/or the examining land surveyor. Then one (1) cloth-backed or opaque mylar copy, and one (1) reproducible mylar copy, and one (1) paper copy of the final plat shall be prepared and submitted to the planning department.

The governing body may provide for the review of the abstract or certificate of title of the land in question by the county attorney.

#### 15. Guarantee of Public Improvements

As a condition of approval of the final plat, the subdivider shall have installed all required improvements or shall enter into a subdivision improvements agreement guaranteeing the construction and installation of all such improvements. Alternative methods of guaranteeing public improvements and the procedures and requirements for securing the guarantees are provided in APPENDIX E of these regulations.

#### 16. Property Owners' Association

If a common property is to be deeded to a property owners' association, that association shall be incorporated under the applicable laws of the State of Montana. The covenants and restrictions which govern the association shall, at a minimum, provide for:

- a. Formation of property owners' association before any property is sold;

- b. Mandatory membership for each property buyer and any subsequent buyer;
- c. Perpetual reservation of the common property;
- d. The association's responsibility for liability insurance, local taxes, and the maintenance of recreational and other facilities;
- e. Property owners paying their pro-rata share of the cost and that the assessment charged by the association can become a lien on the property;
- f. The association adjusting assessments to meet changing needs;
- g. Means of enforcement and of receiving and processing complaints;
- h. Required permission of the governing body before the association can be dissolved or the restrictions can be modified; and
- i. A regular maintenance program for roads, parks, buildings, drainage facilities and other mutually controlled facilities.

#### 17. Final Plat Approval

The governing body shall approve or disapprove the final plat within thirty-five (35) days after receiving a complete application for approval of the final plat.

The governing body shall examine the final subdivision plat and shall approve it only when it conforms to the conditions of approval set forth on the preliminary plat and to the terms of the Montana Subdivision and Platting Act and these regulations. The governing body, however, may approve a final plat which has been modified to reflect improvements in design, or changes which have occurred in the natural surroundings and environment of the proposed subdivision of the preliminary plat since the time of review and approval.

The governing body shall approve a final plat if it conforms to the approved preliminary plat and if the subdivider has completed all required modifications or conditions and met or exceeded all standards and requirements of these regulations. Approval shall be certified by the governing body of the face of the final plat.

If the final plat is disapproved, the reasons for disapproval shall be stated in the records of the governing body and a copy forwarded to the applicant. The governing body shall return the cloth-backed or opaque mylar and the reproducible copy of the final plat to the subdivider within (10) working days of the action.

The applicant may then make the necessary corrections and resubmit the final plat for approval.

The governing body may withdraw approval of a plat if it determines that information provided by the subdivider, and upon which such decision was based, is inaccurate.

#### 18. Final Plat Filing

Within ten (10) working days of the approval of the final plat, the subdivider shall file the cloth-backed or opaque mylar copy, and the reproducible copy of the approved final plat with the county clerk and recorder with the developer paying the filing and recording fees. After approval, the plat shall not be altered in any manner either before or after filing.

The county clerk and recorder shall refuse to accept any plat for record that fails to have approval in proper form and shall file approved plats only if they are accompanied by the documents specified in APPENDIX D, Standards for Final Subdivision Plats.

TABLES 1 and 2 on Pages III-11 and III-12 summarize the major subdivision review procedure.

TABLE 1. Preliminary Plat Review Process for Major Subdivisions

STEP 1:

1. Initial contact with planner: applicant obtains guidelines, forms, and regulations.
2. Applicant develops design.
3. Pre-application conference: applicant discusses proposal and sketch plan with planning board or planner. Potential problem areas are identified and regulations are highlighted.

STEP 2:

1. Preparation of formal application based on regulations and pre-application conference.
2. Submission of complete application to the planner by application deadline. If the application is complete, the 60 day review period starts at date of the application deadline.
3. Fifteen (15) days prior to public hearing, a notice of hearing published and certified letters mailed to adjacent property owners the applicant and subdividers.
4. Staff analysis of application and recommendation to planning board.
5. Planning board public hearing conducted and subdivision reviewed.
6. Planning board recommendation for approval, conditional approval or disapproval of plat submitted in writing to the governing body and the applicant within ten days of public hearing.
7. Governing body meeting or hearing to approve, conditionally approve or disapprove plat must be completed within the 60 day time limit.

NOTE: Applicant may request an extension of the preliminary plat review process time limit at any stage.

TABLE 2. Final Plat Review Process for Major Subdivisions

STEP 3:

1. Applicant prepares final plat and satisfies all conditions placed upon the preliminary plat approval.
2. Final plat submittal to the planning staff within one year of preliminary plat approval unless an extension has been granted.
3. Final plat reviewed by governing body and planning staff within 35 days of its acceptance for review.
4. Final plat approval by governing body when plat conforms to conditions of approval, Montana Subdivision and Platting Act, and local subdivision regulations.
5. Final plat filed within ten days of final plat approval. Plat and supplementary documents filed with the clerk and recorder by the subdivider.

NOTE: Applicant may withdraw application at any time during preliminary or final plat review, and the process is terminated.

#### IV. PROCEDURES FOR MINOR SUBDIVISIONS

##### A. Construction Timing

The subdivider shall not proceed with any construction work on the proposed subdivision, including grading and excavation relating to public improvements, until he or she obtains from the governing body preliminary approval of the proposed subdivision plat.

##### B. Transfers of Title

Except as noted below, a final subdivision plat must be filed for record with the county clerk and recorder before title to the subdivided land can be sold or transferred in any manner. After the preliminary plat of a subdivision has been approved or conditionally approved, the subdivider may enter into contracts to sell lots in the proposed subdivision if all of the following conditions are met:

1. That under the terms of the contracts the purchasers of lots in the proposed subdivision make any payments to an escrow agent which must be a bank or savings and loan association chartered to do business in the State of Montana.
2. That under the terms of the contracts and the escrow agreement the payments made by purchasers of lots in the proposed subdivision may not be distributed by the escrow agent to the subdivider until the final plat of the subdivision is filed with the county clerk and recorder.
3. That the contracts and the escrow agreement provide that if the final plat of the proposed subdivision is not filed with the county clerk and recorder within two years of the preliminary plat approval, the escrow agent shall immediately refund to each purchaser any payments made under the contract, and
4. That the contracts contain the following language conspicuously set out therein: "The real property which is the subject hereof has not been finally platted, and until a final plat identifying the property has been filed with the county clerk and recorder, title to the property cannot be transferred in any manner."
5. That the county treasurer has certified that all real property taxes and special assessments assessed and levied (currently due or delinquent) on the land to be subdivided have been paid.
6. A copy of the contracts and escrow agreement described above shall be submitted to the planning staff.

##### C. Application Review Procedures

Unless deemed necessary for proper and effective public review at the discretion of the planning director, the following requirements shall not apply to minor subdivisions:

- a. the completion of an environmental assessment; and
- b. the submission of a preliminary plat; and
- c. the public hearing.

However, it is not the purpose of minor subdivision review process to allow the creation of de facto major subdivisions containing more than five lots in aggregate over time, without an environmental assessment, park dedication, public hearing, review by the planning board, or other requirements.

In order to determine whether a subsequent minor subdivision from a tract of record may be subject to the procedural requirements for review of a major subdivision, the following criteria shall be considered:

- a. Montana Subdivision and Platting Act
- b. Lewis and Clark County Subdivision Regulations
- c. Other subdivisions in the vicinity
- d. Applicants for subdivision proposals
- e. Ownership history of subject property and adjacent properties
- f. Dates and procedural requirements of previous subdivisions
- g. Coordination of subdivision design and improvements
- h. Cumulative number of lots that would be created
- i. Other information

The factual and legal circumstances pertaining to the proposed subsequent minor subdivision shall be evaluated with regard to these criteria and the planning director shall determine what review procedure will be followed. Subsequent minor subdivisions may be subject to some or all of the procedural requirements of major subdivisions (contained in Section III.A. of these regulations).

#### 1. Pre-application Procedures

The subdivider shall schedule a meeting with the planner prior to submitting the required preliminary application, contained in Part 1 of APPENDIX C. This meeting is required and must be held no more than one hundred twenty (120) days prior to submittal of a preliminary plan application. The purpose of this meeting is to discuss these regulations and standards, to familiarize the subdivider with the applicable goals and objectives of Lewis and Clark County, and to discuss the proposed subdivision as it relates to these matters. The planning staff shall notify the subdivider of the option of concurrent review of the subdivision by the local government and the Montana Department of Environmental Quality. The subdivider should provide a sketch plan of the proposed subdivision for review and discussion. The sketch plan should be legibly drawn showing in simple form the layout of proposed features in relation to existing site conditions. The sketch plan may be a freehand sketch made directly on a print of a topographic map. Scale dimensions may be noted. The sketch plan should include pertinent information such as approximate tract and lot boundaries, location of easements, utilities, rights-of-way, parks and open spaces, and a description of general terrain, natural features, existing structures and improvements, and proposed public improvements.

## 2. Permission to Enter

The governing body or its designated agent(s) or agency may conduct such investigations, examinations, and site evaluations as they deem necessary to verify information supplied as a requirement of these regulations, to post notice, or to adequately evaluate the proposal. The submission of pre-application materials or a preliminary plan for review shall constitute a grant of permission to enter the subject property.

In order to facilitate site investigations, the subdivider shall establish visible flagging on the property to delineate the approximate boundaries of the proposed land divisions and major design elements such as access road centerlines. This flagging must be established at the time of submittal of the preliminary plat application.

## 3. Application for Minor Subdivision

The subdivider shall submit the following application information to the planning staff as one submittal:

- a. Part I of the Montana Department of Health and Environmental Sciences/Local Government Joint Application Form (see APPENDIX C);
- b. the required review fee as stated in the fee schedule in APPENDIX A;
- c. copies of the preliminary plat or site plan and related supplements;
- d. all supplements as required by APPENDIX B, or as specified at the pre-application conference;
- e. the preliminary plat or site plan must conform to the design and improvement standards set forth in Section X, of these regulations. If any design features or improvements do not conform with these standards, the subdivider shall submit a written request for variances with the preliminary plat application, pursuant to Section II.B. of these regulations.

Said Application materials must be submitted by the monthly deadline.

The planning staff will review the application materials and determine the completeness and sufficiency of the application. This review must be completed within five (5) working days after receipt of an application. If the application is found to be deficient, the planning staff will provide written notice to the applicant of the determination, including a summary of the identified deficiencies which are the basis of the determination. An application will not be further processed until a determination of completeness and sufficiency has been made.



The copies of the preliminary plat and supplements will be distributed for the review by local agencies and utilities having a substantial interest in proposed subdivisions. Such agencies may include school, police, sanitarian, road department, fire, utility, and conservation district, local office of the United States Forest Service, Bureau of Land Management, or Soil Conservation Service, and other appropriate bodies. Review by planning staff and public agencies shall not delay the governing body's action beyond the 35 day limit. Any review comments shall be made available upon request.

#### 4. Planning Staff Analysis

The Planning staff will analyze the application and any comments received from agency personnel and the public. Findings shall be incorporated into a staff report with recommendations to the governing body within 30 days. The staff report will be available at least three (3) working days prior to the governing body meeting.

#### 5. Planning Board Action

After staff accepts a preliminary application as complete, the planning board may hold a work session for the purpose of submitting comments to planning staff on the preliminary plat. The work session shall be called for at the discretion of planning director.

#### 6. Governing Body Action

The governing body shall hold a public meeting on the proposed minor subdivision. When a proposed subdivision is to be annexed to a municipality, the governing body may hold joint hearings with the governing body of the municipality on the preliminary application and annexation. Notice of the time and date of the meeting shall be given to the subdivider and each property owner of record immediately adjoining the land included in a preliminary plan, by certified or registered mail not less than 15 days prior to the date of the meeting. The planning staff may require the posting of the notice of the meeting at conspicuous places on the boundaries of the proposed subdivision.

#### 7. Preliminary Application Approval, Approval With Conditions, or Disapproval

The basis for the governing body's decision to approve, conditionally approve, or disapprove a subdivision shall be whether the development of the subdivision would meet the requirements of the Montana Subdivision and Platting Act, and these local subdivision regulations, based upon the following:

- a. the preliminary plat application and supplements;
- b. relevant evidence relating to the public health safety, and welfare; and

- c. staff report and related information; and
- d. additional information.

The governing body shall issue written findings of fact that weigh the following criteria:

- a. effects on agriculture and agricultural water user facilities;
- b. effects on cultural and historic resources;
- c. effects on local services;
- d. effects on the natural environment;
- e. effects on wildlife and wildlife habitat;
- f. effects on the public health and safety;
- g. compliance with the survey requirements of the MSPA and these regulations;
- h. compliance with the regulations and review procedures of these regulations;
- i. provision of easements for the location and installation of utilities;
- j. provision of legal and physical access to each parcel within the subdivision and the notation of that access on the applicable plat; and
- k. conformance with applicable zoning or other regulations in effect and/or any officially adopted comprehensive plan for the area involved.

If the governing body approves, conditionally approves or disapproves the preliminary plan, it shall inform the applicant of the decision in writing, stating the reasons for disapproval or enumerating the conditions of approval. This letter shall be mailed not more than ten (10) working days after the public meeting where action was taken.

The governing body may require the subdivider to design the subdivision or provide other measures to reasonably minimize potentially significant adverse impacts identified through the review process. The governing body shall consult with the subdivider to develop reasonable mitigation requirements, giving consideration to the expressed preference of the subdivider. Such requirements must be justified by the written findings of the governing body.

The governing body may withdraw approval of an application if it determines that information provided by the subdivider, and upon which the decision was based, is inaccurate.

#### 8. Preliminary Plan Approval Period

Upon approving or conditionally approving a preliminary application, the governing body shall provide the subdivider with a dated and signed statement of approval. This approval shall be in force for not more than one calendar year. At the end of this period the governing body may, at the written request of the subdivider, extend its approval annually for a period not to exceed three (3) calendar years.

After the preliminary application is approved, the governing body may not impose any additional conditions as a prerequisite to final plat approval, providing said approval is obtained within the original or extended approval period as provided above. However, the subdivider may waive this requirement. Approval of the minor subdivision preliminary application does not constitute approval of the minor subdivision final plat.

If the subdivider seeks to modify any condition of approval required by the governing body, or seeks any modification of the preliminary plan, or seeks any variance, the subdivider must submit a written request and rationale for such modification or variance. No modifications of the preliminary approval statement may be made without the approval of the governing body. The governing body may require that public notice and opportunity for public comment be provided for any substantive modification of conditions required by the governing body.

#### 9. Final Plat Application

An application for final plat (contained in APPENDIX D), together with one (1) paper copy of the final plat and supplements shall be submitted to the planning department for review.

#### 10. Final Plat Review

The final plat of the minor subdivision will be reviewed by the planning department, provided that all requirements for the form and content and its supplements are met, to assure that it conforms to the approved minor subdivision application. The minor subdivision plat submitted for approval shall comply with the Standards for Final Subdivision Plats as contained in APPENDIX D of these regulations.

The governing body requires that final subdivision plats be reviewed for errors and omissions in calculation or drafting by an examining land surveyor before recording with the clerk and recorder. When the survey data shown on the plat meet the requirements set forth by the Montana Subdivision and Platting Act and the Montana Uniform Standards for Monumentation and Final Subdivision Plats, the examining land surveyor shall so certify on the plat. No land surveyor having a financial or personal interest in a plat shall act as an examining land surveyor in regard to that plat.

The subdivider shall make any corrections or revisions to the preliminary plat as noted by the planning staff and/or the examining land surveyor. Then one (1) cloth-backed or opaque mylar copy, and one (1) reproducible mylar copy, and one (1) paper copy of the final plat shall be prepared and submitted to the planning department.

The governing body may provide for the review of the abstract or certificate of title of the land in question by the county attorney.

#### 11. Guarantee of Public Improvements

As a condition of approval of the final plat, the subdivider shall have installed all required improvements or shall enter into a subdivision improvements agreement guaranteeing the construction, installation, and/or maintenance of all such improvements. Alternative methods of guaranteeing public improvements and the procedures and requirement for securing the guarantees are provided in APPENDIX E.

#### 12. Property Owners' Association

If common property is to be deeded to a property owners' association, that association shall be incorporated under the applicable laws of the State of Montana. The covenants and restrictions which govern the association shall, at a minimum, provide for:

- a. Formation of property owners' association before any property is sold;
- b. Mandatory membership for each property buyer and any subsequent buyer;
- c. Perpetual reservation of the common property;
- d. The association's responsibility for liability insurance, local taxes, and the maintenance of recreational and other facilities;
- e. Property owners paying their pro-rata share of the cost and that the assessment charged by the association can become a lien on the property;
- f. The association adjusting assessments to meet changing needs;
- g. Means of enforcement and of receiving and processing complaints;
- h. Required permission of the governing body before the association can be dissolved or the restrictions can be modified; and
- i. A regular maintenance program for roads, parks, building, drainage facilities and other mutually controlled facilities.

### 13. Final Plat Approval/Disapproval

The governing body shall approve or disapprove the minor subdivision final plat within thirty-five (35) days after receiving a complete application for approval of the final plat.

The minor subdivision plat shall conform in all major respects to the preliminary application and sketch plan as previously reviewed and approved by the governing body and shall incorporate all required modifications. The governing body, however, may approve a minor subdivision which has been modified to reflect improvements in design, or changes which have occurred in the natural surroundings and environment of the development site since the time of the application review and approval.

The governing body shall approve a minor subdivision plat if it conforms to the approved application and sketch plan and if the subdivider has completed all required modifications or conditions and met or exceeded all standards and requirements of these regulations. Approval shall be certified by the governing body on the face of the minor subdivision plat.

If the minor subdivision plat is disapproved, the reasons for disapproval shall be stated in the records of the governing body and a copy forwarded to the applicant. The governing body shall return the cloth-backed and the mylar copy of the minor subdivision plat to the subdivider within ten (10) working days of the action.

The applicant may then make the necessary corrections and resubmit the plat for approval.

The governing body may withdraw approval of a plat if it determines that information provided by the subdivider, and upon which such decision was based, is inaccurate.

### 14. Final Plat Filing

Within ten (10) working days of the approval of the final plat, the subdivider shall submit for filing the approved final plat and supplementary documents with the county clerk and recorder with the subdivider paying the filing and recording fees. After approval, the plat shall not be altered in any manner, either before or after filing. The county clerk and recorder shall refuse to accept any plat for record that fails to have approval in proper form or has been altered, and shall file the approved plat only if it is accompanied by the documents specified in APPENDIX D, Standards for Final Plats.

TABLE 3 on Page IV-11 summarizes the review procedure for minor subdivisions.

D.     **Summary Review Procedures for Minor Subdivisions Creating One Additional Lot**

Pursuant to Section 76-3-505 MCA, provision for summary review of minor subdivisions is made below.

1. Any subdivision of land creating only one additional lot from a tract of record established as of April 12, 1988, is eligible for summary review. It is not the purpose of summary review to allow the creation of subdivisions of more than two tracts in aggregate over time. Under this review, subdivisions are subject to the same procedural requirements as minor subdivisions (contained in Sections IV.A.-C.) except that:

a. There shall be no planning board review of the summary application; planning staff will make direct recommendation to the governing body once a complete application has been received and reviewed. The governing body shall consider the staff recommendation at its next regularly scheduled meeting.

b. The planning staff shall submit a recommendation for approval, conditional approval, or disapproval in writing to the subdivider and the governing body not later than 15 working days after receiving the complete summary application.

c. The total review period on the summary application by the planning staff and governing body shall not exceed 21 days, provided that planning department caseloads permit accelerated review. If staff caseloads do not permit accelerated review, the applicant will be notified within five (5) days of the date of application.

d. Parkland dedication requirements do not apply.

e. There shall be no public hearing required for minor subdivisions eligible for summary review.

f. The staff report will be available at least one (1) working day prior to the governing body meeting.

2. Under certain circumstances, creation of a space for an additional dwelling unit may be exempt from the review requirements of these regulations. Section 76-3-207 (1)(b), MCA, provides for transfer of a land division to a member of the immediate family, if the property is not located within a platted subdivision. Corollary to this concept, the provision of a space for a dwelling to be occupied by a member of the immediate family may also be considered exempt from review under these regulations, if the following circumstances apply:

- a. the property is not within a platted subdivision;
- b. there is no sale, rent, lease, other conveyance, or any compensation, consideration or in-kind service exchanged;
- c. the property is occupied by a member of the immediate family as defined in Appendix J, Section D.2.a. of these regulations; and

d. a family declaration is recorded with the Clerk and Recorder.

The application procedure for such a family declaration is conducted through the County planning department. Any other review procedures, permits, or requirements still apply, including, but not limited to issues of wastewater disposal, water supply, driveway approach and access, floodplains, erosion and sediment control, weed management, zoning, covenants, etc. Any subsequent change in occupancy of such a dwelling may be a violation of the Montana Subdivision and Platting Act and these regulations, and the property may be subject to the review provisions.

TABLE 4 on Page IV-12 summarizes the summary review procedure for minor subdivisions.

TABLE 3. Minor Subdivision Review Process

1. Initial contact with planning staff: applicant obtains guidelines and forms.
2. Applicant develops concept.
3. Pre-application conference: applicant discusses proposal with planning staff. Modifications, if any, are discussed.
4. Preparation of minor subdivision application based on pre-application conference and regulations.
5. Submittal of complete application to the planner by application deadline. If application is complete, 35 day review period starts at date of the application deadline.
6. If requested by the planning staff, the planning board may hold a work session on the application at its next regular meeting. Planning staff recommendation is submitted in writing to the governing body and the subdivider.
7. Governing body action to approve, conditionally approve or disapprove a minor subdivision must be completed within the 35-day time limit.

NOTE: Applicant may request an extension of the review process time limit at any stage.

8. Applicant prepares final plat and satisfies all conditions placed upon the approved application for minor subdivision.
9. Final plat submitted to planning staff within one year of minor subdivision application approval.
10. Final plat reviewed by planning staff and governing body within 35 days of its acceptance for review.
11. Final plat approval by governing when plat conforms to conditions of approval, Montana Subdivision and Platting Act, and local subdivision regulations.
12. Final plat filed within 10 days of final plat approval. Plat and supplementary documents filed with the clerk and recorder by the subdivider.

NOTE: Applicant may withdraw application at any time during preliminary or final plat review, and the process is terminated.



TABLE 4. Summary Review Process for Minor Subdivisions Creating One Additional Lot

1. Initial contact with planning staff: applicant obtains guidelines and forms.
2. Applicant develops concept.
3. Pre-application conference: applicant discusses proposal with planning staff. Modifications, if any, are discussed.
4. Preparation of minor subdivision application based on pre-application conference and regulations.
5. Submittal of complete application to planning staff by application deadline. (If application is complete, 21 and 35 day review periods start at date of the application deadline.)
6. Planning staff recommendation is submitted in writing to the governing body and the subdivider not later than 15 days after receiving the summary application, provided staff caseload allows.
7. Governing body action to approve, conditionally approve or disapprove the summary review completed within 21 days, provided staff caseload allows. (Maximum statutory review period is 35 days.)

NOTE: Applicant may request an extension of the review process time limit at any stage.

8. Applicant prepares final plat and satisfies all conditions placed upon the approved application for minor subdivision.
9. Final plat submitted to planning staff within one year of minor subdivision application approval.
10. Final plat reviewed by planning staff and governing body within 35 days of its acceptance for review.
11. Final plat approval by governing when plat conforms to conditions of approval, Montana Subdivision and Platting Act, and local subdivision regulations.
12. Final plat filed within 10 days of final plat approval. Plat and supplementary documents filed with the clerk and recorder by the subdivider.

NOTE: Applicant may withdraw application at any time during preliminary or final plat review, and the process is terminated.

## V. CORRECTING OR AMENDING FILED FINAL PLATS

### A. Correcting Filed Final Plats

Corrections of drafting or surveying errors that will not materially alter the plat (see B.1. below) may be made by the submission of a corrected final plat for the governing body's approval. The plat shall be entitled "Corrected Plat of the (name of the subdivision) Subdivision" and the reason for the correction shall be stated on the face of the plat. The plat may be filed under the procedures for summary review for minor subdivisions, Section IV.D. of these regulations.

### B. Amending Final Plats

#### 1. Material Alterations

Changes that materially alter any portion of the filed plat, its land divisions, or improvements, as determined by the county planning department and/or county attorney, shall be made by the filing of a amended plat showing all alterations. Within a platted subdivision, any division of lots which results in an increase in the number of lots, or which redesigns or rearranges six or more lots, must be reviewed and approved by the governing body and an amended plat must be filed with the county clerk and recorder.

The amended plat shall be subject to procedures for major or minor subdivisions, as is appropriate. (See Section III. of these regulations for major subdivisions or Section IV. for minor subdivisions).

The governing body may not approve an amendment which will place the plat in non-conformance with the standards contained herein unless a public hearing or meeting is held on the plat and a written variance from the standards issued pursuant to Section II.B. Variances.

The governing body may not approve an amendment unless it is consented to in writing by all affected property owners within the subdivision.

The final amended plat submitted for approval shall comply with the Standards for Final Plats (APPENDIX D), with the exception that the title shall include the word "Amended."

#### 2. Exemptions for Amended Plat Review

Amended subdivision plats are subject to the appropriate procedural requirements contained in Sections III. and IV. of these regulations, except that the relocation of common boundaries and the aggregation of lots within platted subdivisions filed with the county clerk and recorder are exempt from approval as a subdivision where five or fewer of the original lots are affected or where one lot within and one lot outside a subdivision are affected. An amended plat must be prepared following the requirements of the Standards for Final Subdivision Plats (APPENDIX D) except that in place of the governing body's approval the landowner certifies that the approval of the governing body is not required pursuant to Section 76-3-207(1)(d) or (e), MCA.

## VI. SUBDIVISIONS CREATED BY RENT, LEASE OR OTHER CONVEYANCE - MOBILE HOME PARKS

### A. Procedures

1. A subdivision created by rent, or lease or other conveyance, such as a mobile home park or space for an additional dwelling unit, is any tract of land divided by renting, leasing, or otherwise conveying portions thereof. It is owned however, as one parcel under single ownership. Subdivisions created in this manner are exempt from the surveying and filing requirements of the Montana Subdivision and Platting Act but must be submitted for review, and approved by the governing body before portions thereof may be conveyed. As such, no final plat is required for subdivisions created by rent or lease. Approval must be based on the criteria in Section III.A.10. of these regulations. Mobile home parks may utilize the provisions of Section VII., Planned Unit Developments, to allow the developer creativity in mobile home park design.

2. Major subdivisions created by rent, lease, or other conveyance shall comply with the appropriate procedures in Section III. Minor subdivisions may receive review as provided for in Section IV., either as a minor subdivision or as a minor subdivision creating one additional lot, whichever is appropriate.

3. For all rental or lease subdivisions, the subdivider shall submit a site plan conforming to the requirements for preliminary plats. Preliminary plat forms, contents and supplements are contained in APPENDIX B. The preliminary site plan shall show the lot layout and the typical location of the unit(s) on the lot(s). The subdivider shall submit the site plan to the planning staff.

4. The governing body shall approve, conditionally approve, or disapprove the preliminary site plan of a rental or lease subdivision within sixty (60) days of its presentation, if it is a major subdivision and within thirty-five (35) days if it is a minor subdivision, unless the subdivider consents to an extension of the review period.

If the governing body approves, conditionally approves or disapproves the preliminary site plan, it shall inform the applicant of the decision in writing, stating the reasons for disapproval or enumerating the conditions of approval. This letter shall be posted not more than ten (10) working days after the public meeting where action was taken.

5. Before any portion of a rental or lease subdivision may be occupied or conveyed, the subdivider shall have installed all required improvements. Except where deemed unnecessary by planning staff, preliminary plans, profiles, tentative grades and specifications for proposed improvements shall be submitted to the governing body for its approval prior to the construction of improvements. The governing body may provide for inspection of all required improvements in order to assure conformance with the approved construction plans and specifications.

6. Mobile home parks or trailer courts are required to be licensed by the Montana Department of Environmental Quality under the provisions of Title 50, Chapter 52, MCA.

B. **General Standards for Subdivisions Created by Rent, Lease, or Other Conveyance - Mobile Home Parks**

1. Mobile home parks and other subdivisions created by rent, lease, or other conveyance (except recreational vehicle parks; see Chapter VIII) shall comply with the following provisions of Section X., DESIGN AND IMPROVEMENT STANDARDS. Such subdivisions shall also comply with the regulations of the Montana Department of Environmental Quality.

1. Conformance
  2. Natural Environment
  3. Lands Unsuitable for Subdivision
  4. Floodplain Provisions
  8. Streets and Roads
  9. Improvements
  10. Street and Road Identification
  11. Grading and Drainage
  17. Park Land
  19. Weed Control
  20. Erosion and Sediment Control
2. The governing body may require provision of:
- a. Storage facilities on the lot or in compounds located within a reasonable distance
  - b. A central area for storage of boats, trailers, or other recreational vehicles
  - c. Landscaping to serve as a buffer between the development and adjacent properties
  - d. An off-street area for mail delivery
  - e. Street lighting
3. The governing body shall waive parkland dedication and cash donation requirements for a subdivision created by rent or lease where the subdivider agrees to develop an area of the development as park or

playground in accordance with Section X.A.17. These areas shall be located to conveniently serve residents of the entire development. Recreation areas may include space for community recreation buildings and facilities.

4. Each mobile home shall be skirted within sixty days after said mobile home is moved upon a lot within the subdivision. Said skirting shall be of a material similar to that of which the mobile home exterior is constructed, and attached to the mobile home.

5. Any retail uses intended specifically for the convenience and service of the residents of the mobile home park shall be designed and located in such a manner to discourage use by nonresidents of the mobile home park.

6. One (1) guest parking space for each ten (10) mobile home lots shall be provided. Group parking is allowed.

C. **Streets**

1. All mobile home parks shall be provided with safe and convenient vehicular access from abutting public streets or roads to each mobile home lot.

2. Streets shall be designed to permit safe placement and removal of mobile home units.

3. The subdivider shall not be required to reserve right-of-way in excess of the roadway width.

4. Roadways in a mobile home park shall not be dedicated to public use.

5. Streets and roads in mobile home parks shall comply with the appropriate design standards for local and collector roads and streets listed in Tables 5 and 6 except in regard to right-of-way width. (See 3. above.)

6. Entrance Streets: Entrances to mobile home developments shall have direct connections to a public street and shall be designed to allow free movement of traffic on such adjacent public streets. No parking shall be permitted on the entrance street for a distance of 100 feet from its point of beginning.

D. **The Mobile Home Lot**

1. Mobile home lots shall be arranged to permit the practical placement and removal of mobile homes.

2. All mobile homes shall be located at least twenty-five (25) feet from any property boundary line abutting upon a public street or highway right-of-way and at least fifteen (15) feet from other boundary lines of the park.

3. The mobile home stand must be located at least ten (10) feet from the street that serves it.
4. The limits of each mobile home lot shall be clearly marked on the ground by permanent flush stakes, markers or other suitable means. Location of lot limits on the ground shall be approximately the same as shown on the accepted plans. The degree of accuracy obtainable by working with a scale on the plan and then a tape on the ground is acceptable. Precise engineering of lot limits is not required either on the plans or on the ground.
5. The size of the mobile home stand shall be suitable for the general market to be served and shall fit the dimensions of mobile homes anticipated.
6. The mobile home stand shall be improved to provide adequate support for the placement and tie-down of the mobile home.
7. A mobile home stand may not occupy more than one-third (1/3) of the area of its lot. The total area occupied by a mobile home and its roofed accessory buildings and structures may not exceed two-thirds (2/3) of the area of a lot.
8. No mobile home or its attached structures, such as awnings or carports, may be located within twenty (20) feet of any other mobile home or its attached structures.
9. No detached structure, such as a storage shed, may be located within six (6) feet of any mobile home or its attached structures.
10. A minimum of two (2) off-street parking spaces shall be provided for each mobile home lot. Parking may be in tandem. The driveway shall be located to allow for convenient access to the mobile home. The minimum driveway width shall be ten (10) feet.

**E. Water Supply**

All water supply systems shall meet or exceed the minimum standards of the Montana Department of Environmental Quality. Water supply systems shall be subject to approval by the governing body which may require that any proposed central system provide adequate and accessible water for fire protection in the mobile home park.

**F. Sewage Disposal**

All sewage disposal systems shall meet or exceed the minimum standards of the Montana State Department of Environmental Quality. Sewage disposal systems shall be subject to approval by the governing body.

**G. Solid Waste**

The mobile home park developer shall assure that facilities for collection and disposal of solid waste are available and meet the regulations and minimum

standards of the Montana Department of Environmental Quality. The means for solid waste collection and disposal shall be subject to approval by the governing body.

#### **H. Electrical Systems**

Electrical system installation within a mobile home park shall be designed and constructed in accordance with the applicable State codes.

#### **I. Gas Systems**

Gas equipment and installations within a mobile home park shall be designed and constructed in accordance with the applicable State codes.

1. A readily accessible and identified shutoff valve controlling the flow of gas to the entire gas piping system shall be installed near to the point of connection to the service piping or supply connection of the liquefied petroleum gas container.

2. Each mobile home lot shall have an accessible, listed gas shutoff valve installed. Such valve shall not be located under a mobile home. Whenever the mobile home lot outlet is not in use, the shutoff valve shall be plugged to prevent accidental discharge.

#### **J. Fire Protection**

Every mobile home park shall be equipped at all times with fire extinguishing equipment in good working order of such type, size and number and so located within the park as prescribed by local fire prevention authority, or to satisfy reasonable fire regulations. Alternatively, the property shall be located within a local fire district or fire service area and/or shall contain such facilities as recommended by a local fire authority to provide reasonable fire protection.

## VII. PLANNED UNIT DEVELOPMENTS

### A. Intent

The intent of this section is to provide flexibility in certain subdivision standards, allowing the subdivider creativity in subdivision design using a concept which clusters development to promote economies in providing services while preserving and enhancing open space and unique natural features. The Planned Unit Development (P.U.D.) concept promotes the planning of the individual tract of land to allow for an individual use, such as residential, or for a harmonious combination of uses, such as a mixture of residential and commercial.

### B. Designation as a P.U.D.

1. The development shall be in compliance with P.U.D. provisions in local zoning regulations. Where such provisions do not exist, the proposed subdivision must be designated as a P.U.D. by the planning staff before being reviewed under this Section. To obtain designation of a subdivision as a P.U.D., the subdivider, before submitting a preliminary plat application, must submit to the planning staff the following:

- a. A written request that the plan of the proposed subdivision is to be reviewed as a P.U.D.
- b. A layout plan showing the proposed location and use of lots and structures, and the location and number of parking spaces, if appropriate.
- c. A sketch plan of the proposed subdivision, containing all information requested in Section III.A.3. or IV.C.1., Pre-application procedures.
- d. Proposed restrictive covenants, if any.
- e. Proposed forms of ownership of property within the development.
- f. A schedule showing street and utility improvement completion dates.
- g. A description of all proposed modifications from Section X., DESIGN AND IMPROVEMENT STANDARDS.

2. The planning staff shall review the proposed plan and, before designating the subdivision a P.U.D., shall determine that the development plan promotes the clustering of individual building sites, conforms to the definition and intent of this section, and does one or more of the following:

- a. Preserves to the maximum extent possible, the natural characteristics of the land including topography, vegetation, streams and other bodies of water.



b. Provides economies in the provision of roads and other public improvements.

c. Preserves productive agricultural land.

d. Protects important historic sites or structures or areas of important wildlife habitat.

e. Provides developed facilities for recreational purposes.

3. The planning staff shall review the plan and within ten (10) working days of the submittal, write a letter to the subdivider stating that the plan has or has not been designated as a P.U.D. If disapproved, the reasons for disapproval shall be stated in the letter.

4. Designation as a P.U.D. does not constitute approval of the specific details or modifications proposed by the plan.

#### C. Procedures

If the planning staff designates the development plan a P.U.D., the preliminary plat may be submitted for review. The submittal shall comply with the applicable requirements contained in Section III. or IV. of these regulations.

#### D. Standards

1. Planned unit developments shall comply with the standards contained in Section X, DESIGN AND IMPROVEMENT STANDARDS. These standards may be modified by the governing body upon request of the subdivider where the plan for a P.U.D. includes provisions for efficient traffic circulation, adequate light, air and open space where such standards are not practical or reasonable in respect to the overall P.U.D. subdivision design.

2. In those areas where no zoning exists, the planning board shall determine in consultation with the subdivider and planning staff the overall dwelling units density.

3. The arrangement, type, extent, width, grade and location of all streets shall be considered in their relation to existing and planned streets, to topographical conditions and to public convenience and safety.

VIII. SUBDIVISIONS CREATED BY RENT, LEASE OR OTHER CONVEYANCE - RECREATIONAL VEHICLE PARKS

A. Procedures

1. A subdivision created by rent, or lease or other conveyance, as a recreational vehicle park, is any tract of land divided by renting, leasing, or otherwise conveying portions thereof for the provision of space(s) for recreational vehicles. It is owned however, as one parcel under single ownership. Subdivisions created in this manner are exempt from the surveying and filing requirements of the Montana Subdivision and Platting Act, but must be submitted for review, and approved by the governing body before portions thereof may be conveyed. As such, no final plat is required for subdivisions created by rent or lease. Approval must be based on the criteria in Section III.A.10. of these regulations.
2. Major subdivisions created by rent, lease, or other conveyance shall comply with the appropriate procedures in Section III. Minor subdivisions may receive review as provided for in Section IV., either as a minor subdivision or as a minor subdivision creating one additional lot, whichever is appropriate.
3. For all recreational vehicle park subdivisions, the subdivider shall submit a site plan conforming to the requirements for preliminary plats. Preliminary plat forms, contents and supplements are contained in APPENDIX B. The preliminary site plan shall show the lot layout and the typical location of the unit(s) on the lot(s). The subdivider shall submit the site plan to the planning staff.
4. The governing body shall approve, conditionally approve, or disapprove the preliminary site plan of a rental or lease subdivision within sixty (60) days of its presentation, if it is a major subdivision and within thirty-five (35) days if it is a minor subdivision, unless the subdivider consents to an extension of the review period.  
  
If the governing body approves, conditionally approves or disapproves the preliminary plan, it shall inform the applicant of the decision in writing, stating the reasons for disapproval or enumerating the conditions of approval. This letter shall be posted not more than ten (10) days after the public meeting where action was taken.
5. Before any portion of a recreational vehicle park subdivision may be occupied or conveyed, the subdivider shall have installed all required improvements. Except where deemed unnecessary by planning staff, preliminary plans, profiles, tentative grades and specifications for proposed improvements shall be submitted to the governing body for its approval prior to the construction of improvements. The governing body may provide for inspection of all required improvements in order to assure conformance with the approved construction plans and specifications.

6. Recreational vehicle parks or tourist campgrounds are required to be licensed by the Montana Department of Environmental Quality under the provisions of Title 50, Chapter 52, MCA.

**B. General Standards for Subdivisions Created by Rent, Lease, or Other Conveyance - Recreational Vehicle Parks**

Recreational vehicle parks shall comply with the regulations of the Montana Department of Environmental Quality. Recreational vehicle parks shall comply also with the following provisions of Section X., DESIGN AND IMPROVEMENTS STANDARDS, unless otherwise addressed in Section VIII-C:

1. Conformance
2. Natural Environment
3. Lands Unsuitable for Subdivision
4. Floodplain Provisions
9. Improvements
15. Utilities
17. Park Land
19. Weed Control
20. Erosion and Sediment Control

**C. Streets and Recreational Vehicle Spaces**

The arrangement, type, extent, width, grade, and location of all streets be considered in their relation to existing and planned streets, topographical conditions, and public convenience and safety, and in their relation to the proposed uses of the land to be served by such streets. All recreational vehicle spaces shall be provided with safe and convenient access from abutting streets or roads. Alignment and gradients of roads shall be adapted to topography. Exposed ground surfaces in all parts of every recreational vehicle space shall be paved, covered with stone or other solid material, or protected with a vegetative cover.

**1. Intersections**

a. Intersections of recreational vehicle park streets with local streets or major arterials or highways shall be kept to a minimum. Streets serving recreational vehicle parks shall connect with arterial streets so as to not generate traffic on local streets. Intersections of recreational vehicle park streets with arterials or collector streets shall be designed so as to cause the least possible interference with traffic movement.

b. No more than two (2) streets may intersect at one point.

c. Streets shall intersect at right angles, except when topography dictates otherwise, and in no case shall the angle of intersection be less than sixty (60) degrees.

d. Two streets meeting a third street from opposite sides shall meet at the same point or their centerlines shall be off-set at least one hundred twenty-five (125) feet.

e. Intersection design shall provide acceptable visibility for traffic safety as dictated by the designed operating speeds of the individual roadways.

2. Culverts or bridges shall be provided by the subdivider where drainage channels intersect any street right-of-way. Where culverts are required, they shall extend at least across the entire improved width of the street and/or base of fill and be a minimum of 18 inches in diameter.

3. Plantings may be required for buffering, screening, or soil erosion protection, and are subject to approval by the governing body. Existing trees and other vegetation shall be preserved where possible. A buffering screen may be required along the perimeters of a recreational vehicle park which abuts a highway arterial or frontage access road and existing residential uses.

4. Streets and roads shall be arranged to discourage through traffic.

5. Horizontal alignment of streets shall ensure adequate sight distances.

6. Roads in recreational vehicle parks shall comply with the appropriate design standards for local roads listed in Table 5 and 6 except in regard to right-of-way widths. Streets should be wide enough to accommodate the contemplated parking and traffic load.

#### D. Internal Design

1. Recreational vehicle spaces shall be arranged to facilitate placement and removal of vehicles from individual spaces.

2. Accessory facilities shall be designed and located for safe and convenient use by occupants of the park, but so as to inhibit their use by non-occupants.

3. Recreational vehicles shall be separated from each other and from other structures by at least ten (10) feet. Any accessory structures such as attached awnings shall, for purposes of this separation requirement, be considered part of the recreational vehicle.

4. The density shall not exceed 25 recreational vehicle spaces per acre of gross site area.

5. All recreational vehicles spaces shall be located at least twenty-five (25) feet from a public street or highway right-of-way.

6. The governing body may require that recreational vehicle parks located adjacent to industrial or commercial land uses provide screening such as fences or natural growth along the property boundary line separating the park from such uses.

7. The governing body shall waive parkland dedication and cash donation requirements for a recreational vehicle park subdivision where the subdivider agrees to develop an area of the development for a park or playground area. The area shall be located to conveniently serve all patrons of the recreational vehicle park. Recreation areas may include space for recreation buildings and facilities.

**E. Grading and Drainage**

1. The recreational vehicle park developer shall provide suitable drainage facilities for any surface run-off affecting the park. These facilities shall be located in street right-of-way or open spaces and are subject to approval by the governing body.

2. Each culvert or other drainage facility shall be large enough to accommodate potential run-off from upstream drainage areas.

3. Drainage systems shall not discharge into any sanitary sewer facility.

4. All drainage systems shall meet the minimum regulations of the Montana Department of Health and Environmental Sciences.

**F. Water Supply**

All water supply systems shall meet or exceed the minimum regulations of the Montana Department of Environmental Quality. Water supply systems shall be subject to approval by the governing body. The governing body may require that any central water supply system which is installed be designed to provide an adequate accessible water supply for fire protection purposes.

**G. Sewage Disposal**

All sewage disposal systems shall meet or exceed the minimum regulations of the Montana State Department of Environmental Quality. The means for sewage disposal shall be subject to approval by the governing body.

**H. Solid Waste**

The recreational vehicle park developer shall assure that provisions for collection and disposal of waste are available and meet the minimum regulations of the Montana Department of Environmental Quality. The means for solid waste collection and disposal shall be subject to approval by the governing body.

I.     **Fire Protection**

Every recreational vehicle park shall be equipped at all times with fire extinguishing equipment in good working order and of such type, size and number and so located within the park as prescribed by the local fire prevention authority, or to satisfy reasonable fire regulations. Alternatively, the property shall be located within a local fire district or service area and/or shall contain such facilities as recommended by a local fire authority to provide reasonable fire protection.

## IX. CONDOMINIUMS AND TOWNHOUSES

### A. Condominium Development

All condominium developments are subdivisions subject to the terms of the Montana Subdivision and Platting Act, except those described in paragraphs 1 and 2, below.

1. The construction of condominium buildings or installation of related improvements is not subject to subdivision review and approval procedures, if the condominiums or improvements are to be constructed in a subdivision approved and filed after July 1, 1973, and if the approval of the subdivision was based on the anticipated construction of the condominium and improvements.

2. Conversion of existing structures into condominiums where the conversion is not intended to circumvent the review and approval process and where no alterations and additions are made to existing structures to accommodate conversion of existing units into condominiums.

Where no division of land is created by a condominium subdivision, the subdivision shall be reviewed under the procedures contained in Section VI, SUBDIVISIONS CREATED BY RENT, LEASE OR OTHER CONVEYANCE.

Where division of land takes place in a condominium subdivision, the subdivision shall be reviewed under the procedures contained in Section III. or IV. of these regulations, whichever is applicable.

### B. Townhouse Developments

1. All townhouse developments are subject to the Procedures contained in Sections III and/or IV of these regulations, whichever is applicable.

### C. Standards

1. Condominium and townhouse developments shall comply with those standards contained in Section X., DESIGN AND IMPROVEMENTS STANDARDS, as determined by planning staff and required by the governing body.

2. Condominium and townhouse developments shall meet or exceed the minimum standards of the Montana Department of Environmental Quality and Lewis and Clark County.

3. All buildings and structures in a condominium or townhouse development shall be located at least 25 feet from the site boundary adjoining the right-of-way of a road or highway and 15 feet from the other boundaries of the development site.

4. Condominium developments shall comply with all provisions of the Unit Ownership Act, Sections 70-23-102 through 70-23-703, MCA, as amended.

D.     **Final Plans**

1.     In condominium developments where no land is subdivided, in lieu of filing of a final plat, the subdivider or developer shall submit to the planning staff three (3) copies of a final plan conforming to the requirements for preliminary plat contained in APPENDIX B of these regulations. The plan shall be reviewed to assure that it conforms to the approved preliminary plat and the conditions of approval of the preliminary plat. The approved final plan shall be maintained in the planning department. Where land is subdivided, final plat procedures shall apply.

E.     **Improvements**

1.     All required improvements shall be completed in place or an improvements guarantee provided, in accordance with Section III.A.15. or Section IV.C.11. of these regulations, prior to the approval of the final plat or site plan by the governing body, and prior to the construction of any dwelling units.



## X. GENERAL DESIGN AND IMPROVEMENT STANDARDS

All subdivisions approved by the governing body shall comply with the provisions of this section, except where granted a variance pursuant to Section II.B., Variances. Certain types of subdivisions may have additional or alternative development standards set forth in these regulations. For subdivisions created by rent, lease, or other conveyance refer to Section VI. (mobile home parks) and Section VIII. (recreational vehicle parks). For planned unit developments refer to Section VII., and for condominiums and townhouses refer to Section IX.

### A. General Standards

#### 1. Conformance

The design and development of a subdivision shall conform with any adopted comprehensive plans, zoning ordinance, health department and other resolutions and regulations. Where no zoning regulations are in effect, maximum density and minimum lot size shall be established by the subdivider in consultation with local and state health authorities and the county planning department.

#### 2. Natural Environment

The design and development of subdivisions shall contain satisfactory building sites which are properly related to topography, and shall preserve the natural terrain, natural drainage, existing topsoil, trees, and natural vegetation to the extent possible.

#### 3. Lands Unsuitable for Development

Land which the governing body has found to be unsuitable for development because of potential hazards, including but not limited to flooding, snow avalanches, rock falls, earthquakes, land slides, steep slopes, subsidence, high water table, polluted or non-potable water supply, contaminated soils, high voltage lines, high pressure gas lines, radiation, air or vehicular traffic hazards or congestion; or because of unreasonable burdens on the general public such as requirements for the excessive expenditure of public funds or environmental degradation; or other features which may be detrimental to the health, safety, or general welfare of existing or future residents shall not be subdivided for building or residential purposes. All subdivision proposals shall be submitted to the disaster and emergency services coordinator for review.

#### 4. Floodplain Provisions

Land located in the floodway of a flood of 100 year frequency as defined by Title 76, Chapter 5, MCA as delineated by the Montana Department of Natural Resources and Conservation, or land deemed subject to flooding as determined by the floodplain administrator shall not be subdivided for building or residential purposes, or other uses that may increase or aggravate flood hazards to life, health, or property. All subdivision proposals shall be submitted to the county floodplain administrator for review.

If any portion of a proposed subdivision is within 2,000 horizontal feet and 20 vertical feet of a live stream draining an area of 25 square miles or more, and no official floodway delineation or floodway studies of the stream have been made, the subdivider shall furnish survey data to the Floodplain Management Section of the Water Resources Divisions of the Montana Department of Natural Resources and Conservation. Survey data shall comply with the Standards for Flood Hazard Evaluations as contained in APPENDIX F of these regulations. After the Floodplain Management Section of the Water Resources Division has prepared a report delineating the floodway, the subdivider shall submit it to the planning board along with the Environmental Assessment required for the preliminary plat.

The governing body shall waive this requirement where the subdivider contacts the Water Resources Division and that agency states in writing that available data indicate that the proposed subdivision is not in a flood hazard area.

#### 5. Improvement Design

Engineering and survey plans, specifications and reports required in connection with public improvements and other elements of the subdivision required by the governing body shall be prepared by a registered professional engineer or a registered land surveyor as their respective licensing laws allow in accordance with the Montana Subdivision and Platting Act and these regulations.

#### 6. Lots

Each lot shall contain a satisfactory building site which is properly located to topography and conforms to health department regulations, zoning regulations, and these regulations.

a. No single lot shall be divided by a municipal or county boundary line.

b. No single lot shall be divided by a public street, road, alley or right-of-way.

c. Each lot shall abut and have access to a public or private street or road. Alleys may not be used to provide the primary means of access to a lot.

d. Corner lots shall have driveway access to the same street or road as interior lots.

e. Lots shall be designed with sufficient non-buildable easements to provide adequate visibility for traffic safety as determined by planning staff.

f. No lot shall have an average depth greater than three times its average width. For irregularly shaped lots, a formula for calculating lot widths and depth shall be provided by the planning department.

g. Side lot lines shall be at substantially right angles to street or road lines and radial to curved street or road lines.

h. Through or double frontage lots are prohibited except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography or orientation. Screening, fencing, a no access restriction on one side and/or increased lot depth may be required.

i. For parcels that have rolling or hilly terrain, natural drainages, lakeshore, wetland/riparian areas, or other development constraints, the governing body may require the designation of building sites, building envelopes, building setbacks, or building restrictions to avoid conflicts and ensure compatible development.

7. Blocks

a. Blocks shall be designed to assure traffic safety and ease of traffic control and circulation, to accommodate the special needs of the use contemplated, and to take advantage of the limitations and opportunities of the topography.

b. Block length shall not be designed, unless otherwise impractical, to be more than 1,600 feet. Blocks in high density subdivisions shall not exceed 1,200 feet in length. Unless terrain or other factors dictate to the contrary, blocks shall be at least 400 feet in length.

c. Blocks shall be wide enough to allow for two tiers of lots except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation or unless the governing body approves the design of irregularly shaped blocks indented by cul-de-sacs.

d. Rights-of-way for pedestrian walks, not less than ten feet wide, shall be required where deemed essential to provide circulation or safe access to schools, playgrounds, shopping, transportation and other community facilities.

8. Streets and Roads

a. The arrangement, type, extent, width, grade and location of all streets shall be considered in their relation to existing and planned streets, to topographical conditions and to public convenience and safety, and to proposed uses of the land to be served by them.

b. All roads shall be designated as public access easements and shall be shown and described as such on the final plat.

c. Roads in subdivisions shall meet appropriate design specifications in Tables 5 and 6, on Pages X-15 and X-16.

d. All streets within a major subdivision shall either be maintained by a maintenance district, or shall be maintained by an approved property owners' association.

In minor subdivisions, property owners shall enter into a covenant for road maintenance that requires each property owner to bear their pro-rata share for road maintenance within the subdivision, and shall sign a waiver of right to protest joining a maintenance district. Where a road maintenance district exists, the subdivider shall enter into said district and the two previous requirements shall be waived.

Maintenance districts at a minimum shall provide for road maintenance, dust control, and maintenance of traffic control signs and drainage structures.

e. Residential driveways shall not have direct access onto roads that are functionally classified as major collector or arterial roads. Where there is no other reasonable alternative to a road or driveway accessing a state highway, a road approach permit must be obtained from the Montana Department of Highways before approval can be granted for the proposed road.

f. Local streets shall be designed to discourage through traffic, except where the public health and safety would be enhanced by through connections.

g. Whenever a subdivision abuts or contains an existing or proposed collector or arterial highway or other major thoroughfare, the governing body may require frontage roads, with a reservation prohibiting access along certain property lines, deep lots, building setbacks, easements or reservations for additional right-of-way, or other treatment as may be necessary for adequate protection of residential properties and to separate collector or arterial traffic from local traffic.

h. Dead end streets are discouraged. Where a future street extension is proposed, a temporary cul-de-sac shall be provided. Streets ending in cul-de-sacs shall be no longer than 1000 feet.

i. Half streets are prohibited except where essential to the development of the subdivision and where the governing body is assured that it will be possible to require the dedication of the other half of the street when the adjoining property is subdivided. Whenever an existing half street is adjacent to a tract to be subdivided, the remaining half of the street shall be platted within such tract.

j. Horizontal alignment of streets shall ensure adequate sight distances. When street center lines deflect more than five degrees, connection shall be made by horizontal curves.

k. Intersections. The following items apply to intersections:

1. Streets shall intersect at 90 degree angles, except when topography precludes, and in no case shall the angle of intersection be less than 60 degrees to the center line of the roadway being intersected.

2. Two streets meeting a third street from opposite sides shall meet at the same point, or their center lines shall be offset at least 125 feet for local roads and 300 feet for collectors.

3. No more than two streets may intersect at one point.

4. Intersections of local streets with major collector or arterial streets shall be kept to a minimum.

5. Intersection design shall provide acceptable visibility for traffic safety.

6. Hilltop and swale intersections are discouraged, and will not be allowed where adequate sight distance cannot be assured.

7. Maximum grade of approach at the landing entering a major collector or arterial highway shall not exceed three percent. All road approaches shall conform with the specifications of an approach permit approved by the County Public Works Department.

l. Each major subdivision shall provide at least two different ingress-egress routes.

m. Vertical curves and dips in the roadway should have a radius of not less than 50 feet.

9. Improvements

a. All roadway improvements required by the governing body, including pavement, curbs, gutters, sidewalks, and drainage shall be constructed in accordance with the specifications and standards prescribed in these regulations, and the Lexington and Clark County Specifications for County Roads, using materials approved by the governing body. Subdivision roads that will carry traffic volumes of 400 or more average daily trips (ADT) shall be surfaced with bituminous materials in accordance with Specifications for County Roads, Schedule 6, at a minimum.

b. Roadway subgrades shall be free of topsoil, sod, vegetation or organic matter, soft clay, or other objectionable materials, properly rolled, shaped and compacted and subject to certification by engineer or installer and by the governing body and county road supervisor.

- c. Where access to the subdivision will be by an easement across privately-owned property, the subdivider must provide evidence that the necessary easement encompasses the nature and intensity of the use which will result from development of the subdivision.
  - d. Existing trees and other vegetation shall be preserved where possible. Plantings may be required for buffering, screening, weed control, or soil erosion protection and are subject to approval by the governing body.
  - e. Street light installation may be required by the governing body on all streets within the subdivision or maybe included as part of the public improvements agreement.
  - f. Street or road signs and traffic control devices shall be placed at all intersections by the developer or included as part of the public improvements agreement. Traffic control devices and placement shall be consistent with the Manual on Uniform Traffic Control Devices, available from the county surveyor or road supervisor.
  - g. If mail delivery will not be to each individual lot within the subdivision, the developer shall provide an off street area for mail delivery within the subdivision in cooperation with the United States Post Office. Responsibility for maintenance may be included as part of the bylaws of the homeowners association, if one exists.
  - h. All roads within subdivisions shall be dedicated for public use; except within mobile home and recreational vehicle parks.
10. Street and Lot Identification
- a. Street names shall comply with the provisions of APPENDIX H, Lewis and Clark County Road Naming Regulations.
  - b. Name signs shall be placed at all roadway intersections.
  - c. Whenever possible, name signs shall be placed on the northeast and southwest corners of all intersections. If it is not feasible to utilize the northeast and southwest corners, signs shall be placed so as to be conspicuous to the majority of people.
  - d. At a minimum, name signs shall be 6" x 24". Lettering on street signs shall not be less than 3 inches high and not less than 1/2 inch in stroke.
  - e. Signs shall have white letters on a dark green reflective background.
  - f. Name signs shall be mounted not less than 7 feet nor more than 8 feet above the roadway.

g. The developer shall apply for address assignments for lots within the subdivision. Application is made to the county planning department.

h. In rural subdivisions where topography, vegetation, lot size, mail box location, and/or other circumstances prevent clear visibility or accurate identification of homesites from access roads, the subdivider shall install address identification plaques. The plaques shall conform to the specifications for street identification signs, except for sign width (see Sections 10.d. and e.).

11. Grading and Drainage

a. The drainage system and facilities required for any surface run-off affecting the subdivision shall comply with the regulations of the Montana Department of Health and Environmental Sciences, and are subject to the approval of the governing body. The intent of these regulations is to assure that proper drainage facilities are provided for runoff generated by the subdivision, in addition to historic amounts, and that such facilities are maintained.

b. The subdivider shall provide a complete grading and drainage plan with accurate dimensions, drainage courses, and elevations, showing the proposed grades of streets and drainage improvements. The plan shall be designed and certified by a registered professional engineer.

c. Where the property is at the head of a drainage area and all natural drainage channels will be protected by perpetual drainage easements, a drainage system may be designed by the subdivider. For minor subdivisions, with the approval of the planning staff, a drainage system may be designed in consultation with the Soil Conservation Service, or State Water Quality Bureau.

d. For major subdivisions, an analysis of storm water conditions shall be made by a registered professional engineer. The analysis shall include:

1. Location of intermittent streams or drainage courses that are within the proposed subdivision boundaries, and a determination of their water surface elevation for a 25 year storm occurrence. These calculations will be used to determine whether culverts and road and bridge design are adequate, and to determine building setbacks from these water bodies.

2. Volume of storm water entering the subdivision during a 10 year storm event.

3. Volume of water contributed to the drainage area by the subdivision, pre- and post- development, based on a 10 year storm event.

- e. To accommodate upstream drainage, a drainage facility shall be installed, of sufficient size to accommodate existing and potential runoff from the entire upstream drainage area. Potential runoff should be calculated after the likelihood and density of upstream development has been determined by planning staff.
- f. The subdivision's drainage system design shall provide for on-site storage of water in excess of historic volumes discharged from the site, based on the storm water analysis.
- g. Curbs and gutters, swales, or protection of the natural drainage shall be required as determined by the planning staff according to the character of the area, density of development, and nature of adjoining properties. Curbs and gutters, if any, of adjoining properties shall be extended according to current specifications of local and state authorities.
- h. Culverts or bridges of adequate size shall be provided and installed by the subdivider where drainage channels intersect any street right-of-way or easement. Culvert size, length, and location shall be in conformance with an approved approach permit according to the County's Approach Standards. The cost and installation of driveway culverts shall be the responsibility of each individual lot owner. This responsibility shall be clearly stated in the covenants.
- i. Drainage facilities shall be located in street rights-of-way or in perpetual drainage easements of appropriate widths and are subject to approval by the governing body. Streets shall be designed to drain in a manner that is compatible with existing streets and natural drainage patterns.
- j. Drainage systems shall not discharge into any sanitary sewer facility.
- k. Where required by the governing body, perpetual easements to convey drainage shall be provided.
- l. Where a subdivision is traversed by a watercourse, drainage way, channel, ditch, or stream, easements or rights-of-way may be required to parallel the lines of such watercourse at a sufficient width to allow for maintenance or to protect natural drainage. Setbacks on each side of irrigation canals or ditches may be required for maintenance purposes.
- m. Where a subdivision is traversed or bordered by an irrigation ditch, the subdivider may be required to fence or otherwise restrict access to the ditch to protect public health and safety. Determining the type of access restriction shall be based on consideration of the size of the ditch, seasons of flow, type of subdivision, other safety factors, and comments from the irrigation district or water users' association, if any.



12. Water Supply Systems

a. All water supply systems shall meet the regulations of the Montana Department of Environmental Quality.

b. The water supply system shall be subject to approval by the governing body which may require that any proposed central system provide adequate and accessible water for fire protection.

c. Where the subdivision is within the service area of a public water supply system, the subdivider shall submit plans and specifications for the proposed water system to the water district involved and the Montana Department of Environmental Quality, and shall obtain their approval prior to undertaking any construction to install such facilities.

d. Where the subdivision could be served by a central water supply system in the future, the governing body may require a restrictive covenant on the property which waives the right to protest joining a district to fund the installation and/or maintenance of such a system.

13. Sewage Treatment Systems

a. All sewage treatment systems shall meet the regulations of the Montana State Department of Environmental Quality and the City-County Health Department.

b. The means of sewage treatment shall be subject to approval by the governing body.

c. Where the subdivision is within the service area of a public sanitary sewer system, the subdivider shall submit plans and specifications for the proposed sanitary sewer system facilities to the sewer district involved and the Montana Department of Environmental Quality, and shall obtain their approval prior to undertaking any construction to install such facilities.

d. Where the subdivision could be served by a central sewage collection and treatment system in the future, the governing body may require a restrictive covenant on the property which waives the right to protest joining a district to fund the installation and/or maintenance of such a system.

14. Solid Waste

a. The subdivider shall assure that provisions for collection and disposal of solid waste meet the regulations of the Montana Department of Environmental Quality. The means for solid waste collection and disposal shall be subject to approval by the governing body.

b. Where the subdivision is not located within a landfill district, the governing body may require a restrictive covenant on the property which waives the right to protest joining a district to fund the collection and/or disposal of solid wastes generated by the subdivision.

15. Utilities

a. Utilities shall be placed underground, wherever practical. Underground utilities, if placed in the street right-of-way, shall be located between the roadway and the right-of-way line to simplify location and repair of lines. Such underground facilities shall be installed after the street has been brought to grade and before it is surfaced, to eliminate as far as practicable the necessity for disturbing such surfacing for the connection of individual services.

b. Overhead utility lines shall be located at the rear property line, where practical.

c. Utility facilities shall be designed by utility firms in cooperation with the subdivider, subject, however, to all applicable laws and all rules and regulations of any appropriate regulatory authority having jurisdiction over such facilities.

16. Utility Easements

a. Where required by the governing body, easements shall be provided for utilities.

b. Utility easements shall be centered along side and rear lot lines wherever necessary, and, if placed in the street, be located between the roadway and the right-of-way line.

c. Utility easements shall be 20 feet wide unless otherwise specified by a utility company or the governing body. This may be accomplished by 10 foot dedications along all lot lines where they can be combined for a total of a 20' easement along lot lines. Ten (10) foot easements along front lot lines are adequate if combined with street right-of-way.

d. Where a utility is to be located in an existing, dedicated right-of-way, a notice of utility occupancy must be obtained from the governing body or Montana Department of Highways.

e. In addition to showing the location of the utility easement on the plat with dashed lines, the following statement shall be on the final plat:

"The undersigned hereby grants unto each and every person, firm or corporation, whether public or private, providing or offering to provide telephone, telegraph, electric power, gas, cable

television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in and under each area designated on this plat as "Utility Easement" to have and to hold forever."

17. Park Land

a. In order to provide for the open space and recreational needs of a proposed residential development, a subdivider shall dedicate to the governing body a cash or land donation, except as provided for in subsections (b) and (c). The amount of donation shall be equal to:

1. 11% of the area of the land proposed to be subdivided into parcels of one-half acre or smaller;
2. 7.5% of the area of the land proposed to be subdivided into parcels larger than one-half acre and not larger than 1 acre;
3. 5% of the area of the land proposed to be subdivided into parcels larger than 1 acre and not larger than 3 acres; and
4. 2.5% of the area of the land proposed to be subdivided into parcels larger than 3 acres and not larger than 5 acres.

b. When a subdivision is located totally within an area for which density requirements have been adopted pursuant to a master plan or zoning regulations, the governing body may establish park dedication requirements based on the community need for parks and the development densities identified in the plans or regulations. Park dedication requirements established under this subsection are in lieu of those provided in subsection (1) and may not exceed 0.03 acres per dwelling unit.

c. A park dedication is not required for:

1. a minor subdivision;
2. land proposed for subdivision into parcels larger than 5 acres;
3. subdivision into parcels that are all nonresidential;
4. a subdivision in which parcels are not created, except when that subdivision provides permanent multiple spaces for recreational camping vehicles, mobile homes, condominiums, or townhouses; or
5. a subdivision in which only one additional parcel is created.

d. The governing body, in consultation with the subdivider and the planning board and/or park board, may determine suitable locations for parks and playgrounds. Giving due weight and consideration to the expressed preference of the subdivider, the governing body may determine whether the park dedication must be a land donation, cash donation, or a combination of both. When a combination of land donation and cash donation is required, the

cash donation may not exceed the proportional amount not covered by the land donation.

e. The governing body shall use the dedicated cash or land for development, acquisition, or maintenance of parks to serve the subdivision. The use of dedicated cash must reasonably serve the subdivision and must be in accordance with adopted plans for parks, recreation, open space, and/or conservation easements. The governing body may not use more than 50% of the dedicated cash for park maintenance.

f. The local governing body shall waive the park dedication requirement if certain conditions exist, as follows:

1. (i) the preliminary plat provides for a planned unit development or other development with land permanently set aside for park and recreational uses sufficient to meet the needs of the persons who will ultimately reside in the development; and

(ii) the area of the land and any improvements set aside for park and recreational purposes equals or exceeds the area of the dedication required under subsection (a.);

2. the preliminary plat provides long-term protection of critical wildlife habitat; cultural, historical, or natural resources; agricultural interests; or aesthetic values; and

(ii) the area of the land proposed to be subdivided, by virtue of providing long-term protection provided for in subsection (6)(b)(i), is reduced by an amount equal to or exceeding the area of the dedication required under subsection (a.); or

3. the area of the land proposed to be subdivided, by virtue of a combination of the provisions of subsections (6)(a) and (6)(b), is reduced by an amount equal to or exceeding the area of the dedication required under subsection (a.).

g. The term "cash donation" is the fair market value of the unsubdivided, unimproved land. It shall be the responsibility of the subdivider to provide satisfactory evidence of the fair market value. This evidence shall be in the form of 1) a recent buy/sell agreement for the property; 2) an appraisal of the property by a licensed real estate appraiser; 3) an opinion of value of the property by a licensed real estate broker/salesperson; or 4) a memorandum from the county appraisal office. Such evidence must be less than six months old. After consideration of all pertinent evidence, the determination of fair market value shall be made by the governing body. If the subdivider and governing body are unable to agree upon the fair market value, the governing body may require the fair market value be established by an appraisal done by a licensed real estate appraiser mutually acceptable to the applicant and the governing body. The appraisal fee shall be shared equally by the applicant and the governing body.

## 18. Fire Protection

All subdivisions shall be planned, designed, constructed, and maintained so as to minimize the risk of fire and to permit the effective and efficient suppression of fires in order to protect persons, property, and forested areas. Measures shall include:

- a. The placement of structures in such a manner so as to minimize the potential for flame spread and to permit efficient access for fire fighting equipment.
- b. The presence of adequate fire fighting facilities on site, as determined by a local fire authority, and when required by the governing body, a possible requirement to join a fire district or initiate a fire service area.
- c. A water supply of sufficient volume, and water distribution system to fight fires on site shall be provided in accordance with the requirements of the local fire authority.
- d. In all major subdivisions at least two entrance-exit roads shall be provided to assure more than one escape route for residents and access routes by fire fighting vehicles.
- e. Special standards for subdivisions proposed in areas of high fire hazard, as determined by the local fire protection authority.
- f. High fire hazard areas include heads of draws, excessive slopes, dense forest growth or other hazardous wildfire components. For subdivisions proposed in areas subject to high wildfire hazard the following standards shall apply:

1. Road rights-of-way shall be cleared of slash.
2. Building sites shall be prohibited on slopes greater than 30 percent and at the apex of "fire chimneys" (topographic features, usually drainage ways or swales, which tend to funnel or otherwise concentrate fire toward the top of steep slopes).
3. Densities in areas of steep slopes or dense forest growth shall be reduced through minimum lot standards as follows:

<u>% Slope</u>	<u>Minimum Lot Size (Acres)</u>	
	<u>Open Grass</u>	<u>Forest &amp; Brush</u>
10-20	2	3
20-30	3	4

4. Open space, park land and recreation areas (including green belts, riding or hiking trails) should be located, where appropriate, to separate residences and other buildings from densely forested areas.

19. Weed Control

Pursuant to Section 77-22-2121 of the County Weed Law, anyone significantly disturbing soil must submit a written weed management and re-vegetation plan to the County Weed District. The plan shall be submitted to and approved by the County Weed Board prior to any disturbance of the land. All requirements and specifications of an approved plan shall be met prior to approval of the final subdivision plat.

20. Erosion and Sediment Control

Pursuant to Section 77-01-9 of the County Sediment Control Ordinance, any person planning to engage in construction/subdivision activities shall submit an erosion and sediment control plan to the County Conservation District. The plan shall be submitted to and approved by the Conservation District Board of Supervisors prior to any disturbance of the land. All requirements and specifications of an approved plan shall be met prior to final subdivision plat approval.

**TABLE 5      Local Street Design Standards** (The following are minimum design standards.)

a. Terrain Classification	Level			Rolling			Hilly		
b. Development Density	<u>Low</u>	<u>Medium</u>	<u>High</u>	<u>Low</u>	<u>Medium</u>	<u>High</u>	<u>Low</u>	<u>Medium</u>	<u>High</u>
c. Right-of-Way width* (feet)	50	60	60	60	60	60	60	60	60
d. Improved Width* (min.) (feet)	24	24	28	24	24	28	24	24	28
e. Type of Curb (if required) (V = vertical face; R = roll type; O = none)	O/R	V	V	V	V	V	V	V	V
f. Sidewalks and Bicycle Path Width (if required) (feet)	0	4-6	4-6	0	4-6	4-6	0	4-6	4-6
g. Sidewalk Distance (if required) from curb or edge of road (ft.)	-	6	6	-	6	6	-	6	6
h. Minimum Sight Distance (ft.)	-----200-----			-----150-----			-----110-----		
i. Maximum Grade	-----6%-----			-----8%-----			-----11%----- (not to exceed 500 ft.)		
j. Maximum Cul-de-Sac Length* (feet)	1,000	700	700	1,000	700	700	1,000	700	700
k. Minimum Cul-de-Sac Radius right-of-way (feet)	-----50-----								
improved surface (feet)	-----40-----								
l. Design Speed* (mph)	-----30-----			-----25-----			-----20-----		
m. Minimum Centerline Radius of curves (feet)	-----250-----			-----175-----			-----110-----		
n. New Bridges									
a. width	28	28	36	28	28	32	28	28	32
b. design load	-----H-20-----								
c. vertical clearance (ft.)	-----14.5-----								

a./ terrain classification

level - grade range of 0 to 8 percent  
rolling - 8.1 to 15 percent  
hilly - over 15 percent

b./ development density

low - 2 or less d.u./acre  
medium - 2.1 - 6.0 d.u./acre  
high - over 6 d.u./acre

d./ Where parking is required, add eight foot parking lane per parking lane.

\*Standards for short cul-de-sac streets in areas designed for low density residential development, where terrain is level, where fewer than ten dwellings would be served, and where there is no potential for further extension of the street are as follows:

Right-of-way width -- 40 feet  
Improved surface width -- 20 feet

Maximum cul-de-sac length -- 500 feet  
Design speed -- 25 mph

**TABLE 6**      **Collector Street Design Standards** (The following are minimum standards.)

a. Terrain Classification	Level			Rolling			Hilly		
b. Development Density	Low	Medium	High	Low	Medium	High	Low	Medium	High
c. Right-of-Way Width (feet)	60	60	70	60	60	70	60	60	70
d. Pavement Width (feet)	36	36	40	36	36	40	36	36	40
e. Type of Curb(if required)	-----Vertical Face-----								
f. Sidewalk and Bicycle Path Width (if required)(feet)	-----4 to 6-----								
g. Sidewalk Distance(if required) from curb or edge of road (feet)	-----10-----								
h. Minimum Sight Distance (feet)	-----250-----			-----200-----			-----150-----		
i. Maximum Grade	-----6%-----			-----8%-----			-----11%-----		
j. Design Speed(MPH)	-----35-----			-----30-----			-----25-----		
k. Minimum Centerline Radius (feet)	-----350-----			-----250-----			-----175-----		
l. New bridges									
a. width	40	40	44	40	40	44	40	40	44
b. design load	-----H-20-----								
c. Vertical clearance (feet)	-----14.5-----								

A major collector, over 3500 ADT is a road that could be put on the Federal Aid Primary (FAP) system and designed to MDOH standards.

a./ terrain classification

level - grade range of 0 to 8 percent  
rolling - 8.1 to 15 percent  
hilly - over 15 percent

b./ development density

low - 2 or less d.u./acre  
medium - 2.1 - 6.0 d.u./acre  
high - over 6 d.u./acre

d./ Paving will be required on all collector streets. Where parking is required, add eight foot parking lane per parking lane.



## **APPENDICES**



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APPENDIX A  
Information for Applicants

Helpful Contacts for Subdividers:

Lewis and Clark County

County Planning Department	447-8374
County Clerk and Recorder	447-8337
County Public Works Department	447-1630
County DES Coordinator/Floodplain Administrator	447-8285
County Environmental Health Division (Sanitarian)	447-8351
County Weed District	447-1640
County Extension Office	447-8346
County Water Quality District	447-8363
County Soil Conservation District	449-5278

State of Montana

Assessor's Office	442-6530
Classification and Appraisal	442-7761
Department of Environmental Quality	444-2406

Other

Helena Valley Irrigation District	442-3292
Soil Conservation Service	449-5278

Application Deadlines and Public Hearing Dates

Deadlines for applications and schedules of public hearings/meetings may be obtained from the County Planning Department.

## Fee Schedule

An initial, non-refundable fee is paid at time of application.

### MAJOR SUBDIVISIONS

preliminary plat	\$575 + \$5/lot
preliminary site plan (mobile home park)	575 + 5/lot
preliminary site plan (RV park)	450 + 1/lot
preliminary plat/site plan (non-residential)	575 + \$50/per non-residential unit
final plat/site plan	375

### MINOR SUBDIVISIONS

preliminary plat/site plan	325
preliminary plat/site plan (non-residential)	325 + \$50/per non-residential unit
summary review	250
summary review (non-residential)	250 + \$50/per non-residential unit
final plat	100

### OTHER SUBDIVISION FEES

amended plats (preliminary)	100
amended plats (final)	100
preliminary plat extension	30
modification of approval conditions (office only)	50
(site visit)	75
request for variance (office only)	50
(site visit)	75
subdivision improvements agreement	50
improvements agreement extension	25
survey review of final plat (Clerk and Recorder Office)	\$variable
addressing	(depends on survey) \$10/address or \$20/hr. (whichever is less)

## APPENDIX B

### Preliminary Plat Form, Contents, and Supplements

#### 1. Preliminary Plat Form

A legible preliminary plat or site plan shall be submitted at a scale sufficient to minimize the number of sheets while maintaining clarity and shall be on one or more sheets at least 11 X 17 inches in size.

#### 2. Preliminary Plat Contents

The preliminary plat submitted for approval shall show or contain on the face of the plat or on separate sheets referenced on the face of the plat the following information. (Eight blue-line copies shall be provided for major subdivisions, five copies for minor subdivisions.) A current topographic map, an aerial photograph or a location map of the largest scale available, with an outline of the subdivision clearly indicated thereon may be used to provide the information required below and in Preliminary Plat Supplements:

a. Name and location of the subdivision, scale, scale bar, north arrow, and date of preparation.

b. The approximate exterior boundaries of the tract and the approximate location of all section corners or legal subdivision corners of sections pertinent to the subdivision boundary. If available, a metes and bounds or other legal description, or copy of previously recorded certificates of survey or subdivision plats, should be submitted.

c. All lots and blocks, designated by numbers, and the approximate dimensions and area of each lot.

d. All streets, alleys, avenues, roads and highways, and the width of the right-of-way, grades and curvature of each, existing and proposed street names, and proposed locations of intersections, or other access points for any subdivision requiring access to arterial or collector highways.

e. The approximate location, boundaries, dimensions and areas of any parks, common grounds, or other grounds dedicated for public use.

f. Any existing and proposed utilities located on or adjacent to the tract including:

- 1) The approximate location, size and depth of water mains, sanitary and storm sewers, and fire hydrants.
- 2) The approximate location of nearest water mains and sewer lines where none are located on or adjacent to the tract.
- 3) The approximate location of gas, electric and telephone lines, and street lights.

g. Ground contours shall be provided for the tract according to the following requirements:

Where average slope is

Contour intervals shall be

Under 10%

2 feet

(If all lots are over one acre in size, 5 feet intervals may be used.)

Between 10% and 15%

5 feet

15% or greater

10 feet

U.S. Geological Survey data or other information may be used if it meets the foregoing interval requirements.

h. The approximate location of existing buildings, structures and improvements.

i. The approximate location and identity of all existing easements and rights-of-way of record and proposed public and private easements and rights-of-way of record, including descriptions of their width and purpose.

### 3. Preliminary Plat Supplements

The following shall be supplied with and considered a part of the preliminary plat:

a. A vicinity sketch or sketches showing conditions on adjacent land. Lands separated from the exterior boundary of the subdivision by public or private right-of-way are deemed to be adjacent for the purpose of this requirement. The sketch should include:

- 1) The names of platted subdivisions and numbers of certificates of survey previously recorded.
- 2) The ownership of lands adjacent to the exterior boundaries of the subdivision and to any access road leading from a present public right-of-way to the boundary of the proposed subdivision.
- 3) Location of any buildings, railroads, power lines, towers, roads, and other land uses.
- 4) Any existing or proposed zoning.

b. List of the names and addresses of owners of record of adjacent property depicted on the sketch.

c. When a tract of land is to be subdivided in phases, the subdivider must provide an overall development plan indicating intent for the development of the remainder of the tract.

d. Three copies of drafts of any covenants and restrictions to be included in deeds or contracts for sale.

e. If common property is to be deeded to a property owners' association, the subdivider shall submit two (2) draft copies of the articles of incorporation, bylaws, and covenants and restrictions which will govern the association. These covenants and restrictions shall be in accordance with the requirements contained in Section III.A.16., Property Owners' Association.



f. Two copies of a complete grading and drainage plan with accurate dimensions, courses and elevations, showing the proposed grades of streets and drainage improvements.

g. Drafts of guarantee of public improvements, if applicable.

h. A minimum of five (5) copies of an environmental assessment shall accompany the preliminary plat unless the subdivider has been exempted under the provisions of Section III.A.7. APPENDIX C provides the format of the assessment and questions to be addressed by the subdivider. Additional copies may be requested by the county planning department.

i. A letter from the subdivider describing the status of mineral and water rights on the property based on his/her research of the property deed.

j. A determination of the amount of cash payment in-lieu of park dedication, if proposed.

k. One copy of the groundwater availability report.

l. One (1) copy of the DHES Joint Application Form.

4. Additional Supplements for Non-residential Units

Applications for non-residential units shall include a list of specific non-residential activities which would be allowed within the subdivision and any activities expressly prohibited.

Applications for non-residential units shall include a detailed scaled site plan and accompanying text showing and describing the following:

- a) location, dimensions, height, and area of all structures;
- b) location, dimensions, area, and plant descriptions of all landscaping features;
- c) location, dimensions, height, area, lighting, and construction of all signs (commercial and traffic control);
- d) location, dimensions, and capacity of all drainage facilities;
- e) location and dimensions of roadways, parking lots, road approaches, and other driveways;
- f) location and number of all parking spaces, including handicapped parking (where applicable);
- g) roadway and parking lot construction cross sections;
- h) traffic generation estimates by each non-residential activity;
- i) preliminary water and wastewater designs to be submitted to the Montana Department of Environmental Quality and the City-County Health Department.

## APPENDIX C

### Montana Department of Health and Environmental Sciences

#### Government Joint Application Form

Section 76-4-129, MCA provides that this Joint Subdivision Application Form may be used to apply for Department of Health and Environmental Sciences (DHES) approval of sanitary facilities of subdivisions under the Sanitation in Subdivisions Act and for subdivision approval by local governments under the Subdivision and Platting Act. Page C-3 of Part I of this form serves as the preliminary plat or plan application form for all subdivisions in Lewis and Clark County.

A. When applying for subdivision review by the planning staff, planning board and local governing body, the following parts of this form must be completed and submitted to the governing body or its designated agent:

1. Part I must be completed for all subdivisions required to be reviewed and approved by the local governing body.

2. Parts I, II and III must be completed for all subdivisions for which local subdivision regulations require submittal of an environmental assessment.

B. When applying for review of sanitary facilities by DHES, parts I and II of this form must be completed and submitted to DHES. Part III must also be completed when local subdivision regulations require submittal of an environmental assessment.

Possible sources of information to contact when completing the form include the following:

#### LOCAL AGENCIES

County Health Department	School District
County Surveyor	Fire District or Department
County Road Supervisor	Sheriff's Department
County Conservation District	Hospital or Ambulance Service
County Extension Service	Chamber of Commerce
County Planning Department	Telephone, Electrical Power,
County Weed District	Gas, and Cable TV Companies
County Floodplain Administrator	

#### STATE AGENCIES

Department of Fish  
Wildlife and Parks

#### INFORMATION

fisheries, vegetation  
and wildlife

#### LOCATION

Helena and  
regional offices

Department of  
Health and  
Environmental Sciences

water quality,  
community sewage  
treatment and water supply

Helena

Department of  
Highways

access to state  
highways, traffic  
data, maps, aerial  
photographs

Helena

Historical Society

historic, cultural  
resources

Helena

Department of State Lands

fire hazards

Helena, Missoula

Department of Natural  
Resources and Conservation

surface and ground  
water, floodplains

Helena

State Library

reference information

Helena

#### FEDERAL AGENCIES

Agricultural Stabilization  
and Conservation Service

#### INFORMATION

aerial photographs

#### LOCATION

Federal Building,  
Helena

Bureau of Land  
Management

vegetation, maps,  
topography

Billings and district  
offices in Butte

Forest Service

topography, surface and  
ground water, vegetation,  
wildlife, fire hazards, maps

Missoula regional  
national forest,  
Federal Building in  
Helena

Geological Survey

geology, surface and ground  
water, water quality, flood-  
ways, topographic maps

Helena

Soil Conservation  
Service

soils, geology, surface and  
ground water, vegetation

Helena and  
county offices

Bureau of Mines  
and Geology

groundwater quantity/quality, Butte  
earthquake hazards

Preliminary Plat Application Form

PART I. GENERAL DESCRIPTION

1. Name, address and telephone number of landowner, and representative, if any (e.g.: engineer, surveyor).

Applicant: \_\_\_\_\_  
Property Owner: \_\_\_\_\_  
Surveyor: \_\_\_\_\_  
Engineer: \_\_\_\_\_

2. Name of proposed development \_\_\_\_\_

3. Location (City and/or County) \_\_\_\_\_

1/4 Section \_\_\_\_\_ Township \_\_\_\_\_ Range \_\_\_\_\_

For proposed amended plats:

Name of subdivision \_\_\_\_\_

Lot #(s) \_\_\_\_\_ Block #(s) \_\_\_\_\_

4. Is concurrent review by the local governing body and OHES requested?  
Yes \_\_\_\_\_ No \_\_\_\_\_

5. Descriptive Data:

a. Number of lots or rental spaces \_\_\_\_\_

b. Total acreage in lots \_\_\_\_\_

c. Total acreage in streets or roads \_\_\_\_\_

d. Total acreage in parks, open space and/or common facilities \_\_\_\_\_

e. Gross acreage of subdivision \_\_\_\_\_

f. Minimum size of lots or spaces \_\_\_\_\_

g. Maximum size of lots or spaces \_\_\_\_\_

Indicate the proposed use(s) and number of lots/spaces in each:

\_\_\_\_\_ Residential, single family  
\_\_\_\_\_ Residential, multiple family  
\_\_\_\_\_ Types of multiple family structures and number of each  
(e.g.: duplex, 4-plex)  
\_\_\_\_\_ Planned Unit Development (No. of units \_\_\_\_\_ )  
\_\_\_\_\_ Condominium (No. of units \_\_\_\_\_ )  
\_\_\_\_\_ Mobile Home Park  
\_\_\_\_\_ Recreational Vehicle Park  
\_\_\_\_\_ Commercial or Industrial  
\_\_\_\_\_ Other (please describe) \_\_\_\_\_

Current land use \_\_\_\_\_  
Current zoning \_\_\_\_\_

I certify that the above statements are true and correct

Signature of applicant/property owner \_\_\_\_\_ Date \_\_\_\_\_

Signature of other property owners \_\_\_\_\_ Date \_\_\_\_\_

Provide the following information regarding the development:

- a. Depth to groundwater at the time of year when water table is nearest to the natural ground surface within the proposed drainfield area \_\_\_\_\_.
- b. Depth to bedrock or other impervious material in the proposed drainfield area \_\_\_\_\_.
- c. A general description of the type of systems for water supply, sewage treatment and solid waste disposal.
- d. An overall development plan indicating the intent for the development of the remainder of the tract, if a tract of land is to be subdivided in phases.
- e. Drafts of any covenants and restrictions to be included in deeds or contracts for sale.
- f. Drafts of homeowner's association bylaws and articles of incorporation, if applicable.\*

\* Submitting a draft copy of a homeowners' association bylaws and articles of incorporation is adequate for DHES to initiate and complete its review of sanitary facilities, but a copy of the fully executed documents must be submitted before DHES can issue final approval.

PART II. REQUIRED INFORMATION FOR APPROVAL OF SANITARY FACILITIES UNDER  
SANITATION IN SUBDIVISIONS LAW AND FOR ENVIRONMENTAL ASSESSMENTS

A. PHYSICAL CONDITIONS

Provide the following attachments:

- a. A vicinity map showing the location of the proposal relative to the nearest town, highway or street system.
- b. Map of soil types or soils survey, and if available, interpretation of soil suitability for the proposed land uses.
- c. Topographic map of the development with contour intervals meeting the preliminary plat requirements of the local subdivision regulations.
- d. On one or more copies of a preliminary plat\* (a minor subdivision plat if applicable) prepared in accordance with local subdivision regulations, or a final plat, showing the location of:
  - 1) any rock outcroppings.
  - 2) any areas subject to flood hazard, or if available, 100 year floodplain studies. (The Floodplain Management Section of the Water Resources Division of the Department of Natural Resources and Conservation or the County Floodplain Administrator may be contacted for assistance in determining flood hazard locations.)
  - 3) any natural water systems such as streams, rivers, intermittent streams, lakes or marshes (also indicate the names and sizes of each).
  - 4) any man-made water systems such as canals, ditches, aqueducts, reservoirs and irrigation systems (also indicate the names, sizes and present use of each).
  - 5) any existing or proposed utilities located within or adjacent to the subdivision, including: electrical power, natural gas, telephone service.

B. WATER SUPPLY

1. Where an individual water supply system is proposed for each parcel:

- a. Indicate the distance to the nearest public water system.
- b. If wells or springs are to be used, provide evidence that ground water supply meets DHES standards for quantity, quality and dependability (e.g.: well logs, chemical analyses). Where acceptable tests cannot be conducted, a hydrogeological report, which substantiates adequate quantity and quality of the water supply shall be submitted.
- c. If cisterns are to be used:
  - 1) explain why cisterns are proposed;
  - 2) identify the source of water supply and provide evidence that it is of sufficient quantity and quality to serve the development;
  - 3) explain what provisions will be made for sanitary hauling of water.
- d. Attach two copies of the plat showing the proposed location of each spring, well or cistern and indicating the distance to existing or proposed sewage disposal systems.

\* Submitting a preliminary plat is adequate for DHES to initiate and complete its review of sanitary facilities, but a copy of the final plat must be submitted before DHES can issue final approval.

2. Where a public or multiple-family water system is proposed:

- a. Estimate the number of gallons per day required by the development when fully developed (include required volume for domestic, fire protection and irrigation use if applicable).
- b. Where an existing system is to be used:
  - 1) identify the system and the person, firm or agency responsible for its operation and maintenance;
  - 2) indicate the system's capacity to handle additional use and its distance from the development;
  - 3) provide evidence that permission to connect has been granted;
  - 4) provide two copies of the following attachments:
    - a) map or plat showing location and sizes of any existing water supply lines and facilities which may directly serve parcels within the proposed development;
    - b) engineering plans and specifications for all proposed extensions and additional lines and facilities. (In applying for DHES review, plans must be in sufficient detail to indicate sizes of lines and facilities and the capacity of the system. Complete plans and specifications must be submitted for final approval by DHES.)
- c. Where a new system is to be used:
  - 1) provide evidence that the water supply is adequate in quantity, quality and dependability.
  - 2) indicate who will install the system, who will bear the costs, when it will be completed and who will own and maintain the system.
  - 3) provide two copies of the following as attachments:
    - a) a plan for operation and maintenance of the system;
    - b) engineering plans and specifications for the system. (When applying for DHES review, plans must be in sufficient detail to indicate sizes of lines and facilities and the capacity of the system. Complete plans and specifications must be submitted for final approval by DHES.)

#### C. SEWAGE TREATMENT

1. Where individual sewage treatment systems are proposed for each parcel:
  - a. Indicate the distance to the nearest public sewage disposal system.
  - b. Provide as attachments:
    - 1) two copies of the plat which show the proposed suitable location on each lot for a septic tank, a subsurface treatment system and a 100% replacement area for the subsurface treatment system. Show the location of neighboring wells and subsurface treatment systems and the distances to each.
    - 2) the results of percolation tests performed on each lot in the area of the proposed drainfield in accordance with DHES Bulletin 332. Each test hole shall be keyed by a number on a map of the report.

3) a detailed soils description or map. If a soils description is not available or if high ground water or impervious layers are suspected, provide soils showing soil strata from test holes at least 7 feet in depth in the drainfield area. (Note: all major subdivisions require the 7 foot test holes.)

2. For a proposed public or multiple family sewage treatment system

- a. Estimate the average number of gallons of sewage generated per day by the development when fully developed.
- b. Where an existing system is to be used:
  - 1) identify the system and the person, firm or agency responsible for its operation and maintenance.
  - 2) indicate the system's capacity to handle additional use and its distance from the development.
  - 3) provide evidence that permission to connect has been granted.
  - 4) provide two copies of the following attachments:
    - a) a map or plat showing the location, sizes and depth of any existing sewer lines and facilities which will directly serve parcels within the proposed development.
    - b) engineering plans and specifications for all proposed extensions and additional lines and facilities. (In applying for DHES review plans must be in sufficient detail to indicate sizes of lines and facilities and the capacity of the system. Complete plans and specifications must be submitted for final approval by DHES.)
- c. Where a new system is proposed:
  - 1) indicate who will install the system, who will bear the costs, when it will be completed and who will own it.
  - 2) provide two copies of the following as an attachment:
    - a) engineering plans and specifications for the proposed system. (When applying for DHES review plans must be in sufficient detail to indicate sizes of lines and facilities the capacity of the system. Complete plans and specifications must be submitted to DHES for final approval.)
    - b) a plan for operation and maintenance of the system.

D. SOLID WASTE

1. Describe the proposed method of collecting and disposing of solid waste from the development.
2. If use of an existing collection system or disposal facility is proposed, indicate the name and location of the facility.
3. If on-site disposal of solid waste is proposed:
  - a. Indicate location and size of proposed site and provide engineering drawings of the landfill.
  - b. Explain what measures are planned to prevent contamination of surface water or ground water supplies.



- c. Indicate who will install the facility, who will bear the cost, when it will be operational, and who will own, operate and maintain the system.
- d. Provide as an attachment a plan which included:
  - 1) an analysis of soils and hydrology indicating pollution potential.
  - 2) seasonal high ground water.
  - 3) method of operation and maintenance.

#### E. DRAINAGE

- 1. Streets and roads.
  - a. Describe measures for disposing of storm run-off from streets and roads within the subdivision or onto adjacent property.
  - b. Indicate type of road surface proposed.
  - c. Describe facilities for stream or drainage crossings (e.g.: culverts, bridges).
- 2. Other problems.
  - a. Describe how surface run-off will be drained or channeled from parcels.
  - b. Indicate if storm run-off will enter state waters and describe any proposed treatment measures.
  - c. Describe any existing or proposed streambank or shoreline alteration, any proposed construction or modification of lake beds or stream channels. Provide information on location, extent, type, and purpose of alteration.

PART III. INFORMATION REQUIRED FOR ENVIRONMENTAL ASSESSMENT UNDER THE  
SUBDIVISION AND PLATTING ACT

(See page C-2 for sources of information to complete this form. Please substantiate and reference your answers).

Information specified in this Part must be provided in addition to that required in Parts I and II of this application form, when the local subdivision regulations require that an environmental assessment be prepared for a subdivision.

A. GEOLOGY

1. Locate on a copy of the preliminary plat or on a plat overlay any known hazards affecting the development which could result in property damage or personal injury due to:

- a. Falls, slides or slumps -- soil, rock, mud, snow.
- b. Seismic activity.

2: Describe any proposed measures to prevent or reduce the danger of property damage or personal injury from any of these hazards.

B. VEGETATION

1. Locate on a copy of the preliminary plat or on a plat overlay the location of the major vegetation types such as: marsh, grassland, shrub, forest.

2. Describe measures to be taken to protect trees and vegetative cover (e.g., design and location of lots, roads, and open spaces).

C. WILDLIFE

1. What major species of fish and wildlife use the area to be affected by the proposed subdivision?

2. Locate on a copy of the preliminary plat or on a plat overlay any known important wildlife areas, such as big game winter range, waterfowl nesting areas, habitat for rare or endangered species, and wetlands.

3. Describe any proposed measures to protect wildlife habitat or to minimize degradation (e.g., keeping buildings and roads away from shorelines or setting aside marshland as undeveloped open space).

D. HISTORICAL FEATURES

1. Describe and locate on a copy of the preliminary plat or on a plat overlay any known or possible historic, archaeological or cultural sites which may be affected by the proposed subdivision.

2. Describe any plans to protect such sites or properties.

#### E. ROADS

1. Describe any required construction of new public or private access roads or substantial improvements to existing or private access roads.
2. Describe the proposed closure or modification of any existing roads.
3. Explain why access was not provided by means of a road within the subdivision, if access to any of the individual lots is directly from arterial streets or roads.
4. Indicate who will pay the cost of installing and maintaining dedicated and/or private roadway.
5. Estimate how much daily traffic the development, when fully developed, will generate on existing streets and arterials.
  - a. Discuss the capability of existing and proposed roads to safely accommodate this increased traffic.
  - b. Describe any increased maintenance problems and cost that will be caused by this increase in volume.
6. Is year-round access by conventional automobile over legal rights-of-way available to the subdivision and to all lots and common facilities within the subdivision?
7. Identify the owners of any private property over which access to the subdivision will be provided.

#### F. UTILITIES

1. Indicate the utility companies involved in providing electrical power, natural gas, or telephone service. To what extent will these utilities be placed underground?
2. Has the preliminary plat been submitted to affected utilities for review?
3. Estimate the completion date of each utility installation.

#### G. EMERGENCY SERVICES

1. Describe the emergency services available to the residents of the proposed subdivision, including number of vehicle or type of facilities, and road distance and surface condition to facilities for:
  - a. Fire protection - Is the proposed subdivision in an urban or rural fire district? If not, will one be formed or extended? In absence of a fire district, what fire protection procedures are planned?
  - b. Police protection.
  - c. Ambulance service.
  - d. Medical services.

2. Can the needs of the proposed subdivision for each of the above services be met by present personnel and facilities?
  - a. If not, what additional expense would be necessary to make these services adequate?
  - b. At whose expense would the necessary improvements be made?

#### H. SCHOOLS

1. Describe the available public educational facilities which would serve this subdivision, and the road distance to each.
2. Estimate the number of school children that will be added by the proposed subdivision. Provide a statement from the administrator of the appropriate public school system indicating whether the increased enrollment can be accommodated by the present personnel and facilities and by the existing school bus system.

#### I. LAND USE

1. Describe land uses on lands adjacent to the subdivision.
2. Describe any comprehensive plan or other land use regulations covering the area proposed for subdivision or adjacent land. If located near an incorporated city or town, is annexation proposed?
3. Where public lands are adjacent to or near the proposed development, describe the present and anticipated uses of those lands, e.g., grazing, logging, recreation. Describe how the subdivision will affect access to any public lands.
4. Describe any health or safety hazards on or near the subdivision, such as: mining activity, high pressure gas lines, dilapidated structures, high voltage power lines or irrigation ditches. Any such conditions should be accurately described and their origin and location identified.
5. Describe any on-site or off-site uses creating a nuisance, such as unpleasant odor, unusual noises, dust or smoke. Any such conditions should be accurately described and their origin and location identified.

#### J. PARKS AND RECREATION FACILITIES

1. Describe park and recreation facilities to be provided within the proposed subdivision and other recreational facilities which will serve the subdivision.

#### K. LOCATION OF HAZARDOUS OR TOXIC MATERIALS

1. Describe the type and location of any hazardous or toxic materials that could affect the subdivision, including radon gas, heavy metal contamination, and/or nearby storage of hazardous materials.

## APPENDIX D

### Standards for Final Subdivision Plats

1. A final subdivision plat may not be approved by the governing body nor filed by the county clerk and recorder unless it complies with the following requirements:

- a. Final subdivision plats shall be legibly drawn with permanent ink or printed or reproduced by a process guaranteeing a permanent record and shall be 24 inches by 36 inches overall to include a 1-1/2 inch margin on the binding side.
- b. One signed cloth-backed or opaque mylar copy and one signed reproducible copy on a stable based polyester film or equivalent, and one blue-line copy shall be submitted.
- c. Whenever more than one sheet must be used to accurately portray the land subdivided, each sheet must show the number of that sheet and the total number of sheets included. All certifications shall be shown or referenced on one sheet.
- d. Changes to a filed subdivision plat must be filed with the county clerk and recorder as an amended plat. An amended plat may not be filed unless it meets the filing requirements for a final subdivision plat specified in these rules, except that approval by the local governing body is not required where waived by Section 76-3-207 (1)(e), MCA, for relocation of common boundary lines or aggregations affecting five or fewer lots.

2. The final plat submitted for approval shall show or contain, on its face or on separate sheets referenced on the plat:

- a. A title block indicating the quarter-section(s), section, township, range, principal meridian, and county of the subdivision. The title of the plat shall contain the words "plat" and "subdivision".
- b. Name(s) of the owner(s) of the land surveyed and the names of any adjoining platted subdivisions or landowners and numbers of any adjoining certificates of survey previously recorded and ties thereto.
- c. North point.
- d. Scale bar (scale shall be sufficient to legibly represent the required data on the plat submitted for filing).
- e. All monuments found, set, reset, replaced or removed describing their kind, size, location and giving other data relating thereto.
- f. Witness monuments, basis for bearing, bearings and lengths of lines.

- g. The bearings, distances and curve data of all perimeter boundary lines shall be indicated. When the subdivision is bound by an irregular shoreline or body of water, the bearings and distances of a meander traverse shall be given.
- h. Data on all curves sufficient to enable the reestablishment of the curves on the ground. These data shall include:
  - (i) Radius of curve
  - (ii) Arch length
  - (iii) Notation of non-tangent curves
- i. Lengths of all lines shall be shown to be at least tenths of a foot, and all angles and bearings shown to at least the nearest minute.
- j. The location of all section corners or legal subdivision corners of sections pertinent to the subdivision boundary.
- k. All lots and blocks in the subdivision, designated by number, the dimensions of each lot and block, the area of each lot, and the total acreage of all lots. (Excepted parcels shall be marked "Not included in this subdivision" or "Not included in this plat;" as appropriate, and the boundary completely indicated by bearings and distances).
- l. All streets, alleys, avenues, roads and highways; their widths, bearings; the width and purpose of all rights-of-way; and the names of all streets, roads and highways. A certificate of dedication of roads, streets, alleys, parks, playgrounds, other public improvements, common areas and drainage and other easements shall be shown on the face of the plat. (See page G-7.)
- m. The location, dimensions and areas of all parks, common areas, and all other grounds dedicated for public use, or non-buildable area.
- n. Acreage of the subdivision, gross and net. Net area means gross area less areas dedicated to public uses.
- o. A legal description of the perimeter boundary of the tract surveyed.
- p. All monuments to be of record must be adequately described and clearly identified on the plat. Where additional monuments are to be set subsequent to the filing of the plat, the location of such additional monuments shall be shown by a distinct symbol noted on the plat. All monuments or other evidence found during retracements that would influence the positions of any corner of boundary indicated on the plat must be clearly shown.
- q. The signature and seal of the registered land surveyor responsible for the survey. The affixing of the seal constitutes a certification by the surveyor that the final plat has been prepared in conformance with the Montana Subdivision and Platting Act (Sections 76-3-101 through 76-3-614, MCA) and the regulations adopted pursuant thereto.

- r. Memorandum of oaths administered pursuant to Section 76-3-405, MCA.
  - s. Certification by the governing body that the final subdivision plat is approved, except where the plat shows changes to a filed subdivision plat which are exempt from local governing review under Section 76-3-207(1)(e), MCA. Where an amended plat qualifies for such a waiver the plat must contain a statement that pursuant to Section 76-3-207(1)(e), MCA, approval by the local governing body is not required for relocation of common boundary lines or aggregations of lots which affect five or fewer lots.
  - t. The dollar value of cash payment in-lieu-of parkland dedication shall be shown on the final plat, if applicable.
  - u. The location of utility easements shall be shown on the plat with dashed lines, in addition to the following statement: "The undersigned hereby grants unto each and every person, firm or corporation, whether public or private, providing an offering to provide telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as 'Utility Easement' to have and to hold forever."
3. The following documents shall accompany the final plat when submitted for review to the county planning department for purposes of approval by the governing body and filed with the county clerk and recorder.
- a. A platting certificate prepared by a title company showing the names of the owners of record of land to be subdivided and the names of any lien holders or claimants of record against the land and the written consent to the subdivision by the owners of the land, if other than the subdivider, and any lienholders or claimants of record against the land.
  - b. Copies of any covenants or deed restrictions relating to public improvements.
  - c. Certification by the Montana Department of Health and Environmental Sciences that it has approved the plans and specifications for sanitary facilities, if applicable.
  - d. Copies of articles of incorporation and by-laws for any property owners' association, if applicable.
  - e. Certification by the subdivider indicating which required public improvements have been installed and a copy of any subdivision improvements agreement securing the future construction of any additional public improvements to be installed.

- f. Copies of final plans, profiles, grades and specifications for improvements, including a complete grading and drainage plan, with the certification of a registered professional engineer that all required improvements which have been installed are in conformance with the attached plans.
- g. Certification by the governing body expressly accepting any dedicated land and improvements. Acceptance of dedication shall be ineffective without such certification.
- h. Certification of examining land surveyor where applicable.
- i. Copy of the state highway permit when a new street or road access will intersect with a state highway, or a county approach permit, when required.
- j. A declaration of covenant, if the governing body has waived park dedication under the 5 acre, single-family dwelling exemption, in accordance with Section 76-3-607 (3)(a), MCA (See page G-9).
- k. Certification by the County Treasurer that no real property taxes are delinquent on the subject property.
- l. A letter of approval from the County Weed Board, confirming that the applicant has prepared a weed control and revegetation plan for the property.
- m. Each lot on the final plat shall have been assigned an address by the County Planning Department.
- n. Soil Erosion Control Plan approved by the County Soil Conservation District.
- o. Final plat filing fee.
- p. A letter of consent from all parties having an interest in the property.
- q. Certification that the local governing body will not be required to improve or maintain any proposed private road within or providing access to the subdivision.
- r. Certification of park or playground dedication or of cash donation in lieu of land dedication, if applicable.
- s. Floodplain Development Permit approved by the County Floodplain Administrator, if applicable.



## APPENDIX E

### Subdivision Improvements Guarantees

#### A. Improvements to be Completed Prior to Approval of the Final Plan:

All public improvements required under these Regulations and the conditions imposed by the Board of County Commissioners at the time of approval of the preliminary plat, shall be completed prior to the approval of the final plat. However, the Board of County Commissioners, shall at the subdivider's option allow the subdivider to provide or cause to be provided a bond or other reasonable security, in an amount and with surety and conditions satisfactory to the governing body, providing for and securing the construction and installation of the improvements within a period specified by the governing body and expressed in the bonds or other security. The governing body shall reduce bond requirements commensurate with the completion of improvements. The following procedures and requirements shall apply:

#### B. Improvement Standards:

The Board of County Commissioners shall specify the improvements that shall be completed after the final plat is approved. The Board of County Commissioners shall specify that the improvements must be constructed to standards included in these Regulations and the other standards the Board of County Commissioners may adopt. Those improvements may include streets, roads, bridges, culverts, curbs, gutters, drainage water systems, sewage systems, sidewalks, walkways, street lights, street signs, road right-of-way clearings, solid waste facilities, park and recreational facilities, utilities and other improvements as required by the Board of County Commissioners.

#### C. Time Limits:

1. All public improvements shall be completed within the time schedule approved by the Board of County Commissioners and stated in the subdivision improvement agreement between the subdivider and the Board of County Commissioners.

2. Where no specific time schedule is included in the subdivision improvement agreement, all public improvements shall be completed within twenty-four (24) months from the date of approval of the final plat by the Board of County Commissioners.

#### D. Projected Costs:

The Board of County Commissioners shall direct the subdivider to have plans, specifications, and the estimated costs of completing the improvements prepared by a registered professional engineer. The projected improvements cost shall be 125 percent (125%) of the current costs for completing the improvements. The Board of County Commissioners, at its discretion, may require the submitted plans, specifications and projected costs be reviewed by another registered professional engineer acceptable to both parties. The costs for such review shall be borne by the subdivider.

E. Improvement Agreement:

The subdivider shall enter into an improvements agreement with the Board of County Commissioners. The improvement agreement shall include:

1. A commitment to complete the improvements within the specified time;
2. The projected costs of the improvements as approved by the Board of County Commissioners;
3. A guarantee acceptable to the Board of County Commissioners and in a value equal to the approved projected costs of the improvements and;
4. A warranty against defects in the improvements for a period of one year from the date of completion and the Board of County Commissioner's acceptance.

F. Improvement Guarantee:

The subdivider shall provide a guarantee that the improvements will be satisfactorily completed. The guarantee shall have a value equal to the projected costs of completing the improvements, as stated in Section D., above. The guarantee shall specify procedures for the Board of County Commissioners to obtain the funds, should the subdivider fail to satisfactorily complete the improvements. The types of guarantees acceptable to the Board of County Commissioners are described in Section J., below. The method of guarantee shall be subject to approval of the Board of County Commissioners.

G. Inspection and Certification:

Upon completion of required improvements, the subdivider shall file with the Board of County Commissioners a statement certifying that:

1. All required improvements are complete;
2. These improvements are in compliance with the minimum standards specified by the Board of County Commissioners for their construction;
3. The subdivider knows of no defects in these improvements;
4. These improvements are free and clear of any encumbrances or liens;
5. A schedule of actual construction costs has been filed with the Board of County Commissioners;
6. All applicable fees and surcharges have been paid.

The subdivider shall also file with the Board of County Commissioners copies of final construction plans, road profiles, proposed grades and specifications for improvements.

The subdivider will provide for inspection of all required public improvements by a registered professional engineer before final plat approval when

installation is a condition of approval or before the Board of County Commissioners releases the subdivider from the subdivision improvements agreement.

Upon completion of the inspection, the inspecting engineer shall file with the Board of County Commissioners a statement either certifying that the improvements have been completed in the required manner or listing the defect in those improvements.

Should the subdivider fail to meet the requirements of this section, the Board of County Commissioners may provide for such inspection and the cost shall be borne by the subdivider.

H. Reduction and Release of Guarantee:

Only after the inspecting engineer certifies that improvements are complete and free from defect, and after receipt of the statements detailed above, the Board of County Commissioners shall release the subdivider from the subdivision improvement agreement.

The Board of County Commissioners may, upon application by the subdivider, release a portion of the collateral corresponding to the value of the installed improvements.

I. Failure to Satisfactorily Complete Improvements:

If the Board of County Commissioners determines that any improvements are not constructed in compliance with the specifications, it shall furnish the subdivider with a list of specific deficiencies and may withhold collateral sufficient to ensure proper completion. If the Board of County Commissioners determines that the subdivider will not construct any or all improvements to required specifications, or within the time limits, it may withdraw collateral and use these funds to construct the improvements and correct any deficiencies to meet specifications. Unused portions of these funds shall be returned to the subdivider or crediting institution.

J. Acceptable Forms of Improvements Guarantees:

The subdivider shall provide one or more of the following financial security guarantees in the amount of the projected cost of installing all required improvements plus the estimated cost of inflation over the term of the guarantee as determined by county staff:

1. Escrow Account:

The subdivider shall deposit cash, or collateral readily convertible to cash at face value, either with the Board of County Commissioners or in escrow with a bank. The use of collateral other than cash, and the selection of the bank where the funds are to be deposited must be approved by the Board of County Commissioners.

Where an escrow account is to be used, the subdivider shall give the Board of County Commissioners an agreement with the bank guaranteeing the following:

(a) That the funds in the escrow account are to be held in trust until released by the Board of County Commissioners and may not be used or pledged by the subdivider as security for any other obligation during that period.

(b) That should the subdivider fail to complete the required improvements, the bank shall immediately make the funds in escrow available to the Board of County Commissioners for completing these improvements.

2. Letter of Credit:

Subject to the Board of County Commissioners approval, the subdivider shall provide the Board of Commissioners with a letter of credit from a bank or other reputable institution or individual certifying the following:

(a) That the creditor guarantees funds in an amount equal to that cost, as approved by the Board of County Commissioners, of completing all required improvements;

(b) That if the subdivider fails to complete the specified improvements within the required period, the creditor will immediately pay to the Board of County Commissioners upon presentation of a sight draft without further action, an amount of cash necessary to finance the completion of those improvements, up to the limit of credit stated in the letter;

(c) That this letter of credit may not be withdrawn or reduced in amount, until released by the Board of County Commissioners.

3. Property Escrow:

The subdivider may offer as a guarantee, land or other property, including corporate stocks or bonds. The value of any real property to be used in accounting for the possibility of a decline in its value during the guarantee period shall be established by a licensed real estate appraiser at the subdivider's expense. The Board of County Commissioners may reject the use of property as a collateral when the property value is unstable, when the property may be difficult to sell, or when other factors exist which will inhibit the exchange of the property for an amount of money sufficient to complete required improvements.

When the property is offered as an improvement guarantee, the subdivider shall:

(a) Make an agreement with the escrow agent instructing the agent to release the property to the Board of County Commissioners in the case of default. The agreement shall be placed on file with the County Clerk and Recorder.

(b) Provide the Board of County Commissioners a title policy affirming

that the property to be used as a guarantee is free and clear of any encumbrances or liens at the time it is to be put in escrow.

(c) Execute and file with the Board of County Commissioners, an agreement stating that the property to be placed in escrow as an improvement guarantee and that it will not be used for any other purpose, or pledged as a security for any other matter until it is released by the Board of County Commissioners.

4. Sequential Development:

Where a subdivision is to be developed in phased portions, the Board of County Commissioners may, at its discretion, waive the use of a guarantee of the initial portion, provided that the portion contains no more than 25 lots, or fifty percent (50%) of the total number of lots in the proposed subdivision, whichever is less. The Board of County Commissioners may grant final plat approval to only one portion at a time. The plat approval for each succeeding portion will be contingent upon completion of all improvements in each preceding portion and acceptance of those improvements by the Board of County Commissioners. Completion of improvements in the final portion of the subdivision must be guaranteed through the use of one of the other methods detailed in this appendix.

5. Special Improvement District:

The Board of County Commissioners may enter into an agreement with the subdivider, and the owners of the property proposed subdivision if other than the subdivider, that the installation of required improvements will be financed through a special or rural improvement district created pursuant to Title 7, Chapter 12, MCA. This agreement must provide that no lots within the subdivision will be sold, rented or leased, and no contract for the sale of lots executed before the improvement district has been created.

The subdivider, or other owners of the property involved, must also petition the Board of County Commissioners to create a rural improvement district, which constitutes a waiver by the subdivider or the other owners of the property of the right to protest, or petition against, the creation of the district under either Section 7-12-2109 or Section 7-12-4110, MCA. This waiver must be filed with the County Clerk and Recorder and will be deemed to run with the land.

6. Surety Performance Bond:

The bond shall be executed by a surety company authorized to do business in the State of Montana and acceptable as a surety to the Board of County Commissioners and countersigned by a Montana agent. The bond shall be in effect until the completed improvements are accepted by the Board of County Commissioners.

7. Other Acceptable Guarantee(s).

The Board of County Commissioners, at its discretion, may accept any other reasonable guarantee not stated herein, to ensure satisfactory completion of the improvements.

## APPENDIX F

### Standards for Flood Hazard Evaluations

Where a subdivider is required by the governing body or the County Floodplain Administrator to provide data for use in defining the 100 year floodway of a stream subject to flooding, the following information shall be submitted to the Floodplain Management Section of the Water Resources Division, Montana Department of Natural Resources and Conservation:

1. A copy of the plat showing contour intervals of no greater than five feet.
2. The location and elevation of a temporary benchmark established with the subdivision and referenced to mean sea level with appropriate elevation adjustment.
3. A minimum of four (4) surveyed valley cross sections of the stream according to the following requirements:
  - a. Cross sections shall include the stream channel and floodplain on both banks and shall be normal to direction of flow.
  - b. At least one cross section shall be taken at a point on the stream from which it could be extended through the subdivision.
  - c. Three cross sections shall be taken downstream from the subdivision, no more than 1,000 feet apart, but in no case may vertical drop between cross sections exceed 5.0 feet. The cross section farthest downstream should be located at a natural constriction or bridge crossing if possible. Cross sections shall be taken at any location between the subdivision and lowest cross section.
  - d. Distances between cross sections are to be determined by stadia, and these distances and locations of cross sections shall be shown on the location map.
  - e. The overbank cross sections are to be extended to obtain a vertical rise of 15 feet above the water surface.
4. If a U.S. Geological Survey gauging station is within the reach of the stream under study, the elevation of any convenient foot mark shall be surveyed and clearly indicated on the location map.
5. Descriptions and sketches of all bridges within the reach, showing unobstructed waterway openings and elevations.
6. Color photographs clearly depicting the vegetation of both overbanks and the material composition of the banks and channel bottom shall be submitted for each cross section.
7. Cross sections plotted on cross section paper of ten divisions to the inch using any convenient, identified scale for vertical and horizontal

distance. The water surface at the time of survey shall be plotted on each cross section.

8. A profile sheet prepared on cross section paper at ten divisions to the inch, showing the observed water surface profile, location of cross sections, subdivision boundaries, riverbank profile, and thalweg (lowest point of the channel bottom).
  - a. A location map, such as U.S. Geological Survey seven and one-half (7-1/2) minute quad or similar map, showing the proposed subdivision, the locations of the valley cross sections, and any gauging stations.
9. These requirements may vary, so the Supervisor of the Floodplain Management Section of the Water Resources Division of the Montana Department of Natural Resources and Conservation should be contacted.



## APPENDIX G

### Sample Forms and Certificates

1. Certificate of Completion of Public Improvements, page G-2.
2. Improvements Agreement, page G-3.
3. Irrevocable Letter of Credit, page G-7.
4. Certificate of Surveyor - Final Plat, page G-8.
5. Certificate of Dedication - Final Plat, page G-8.
6. Certificate of Consent to Dedication by Encumbrancer, G-9.
7. Certificate of Waiver of Park Land Dedication and Acceptance of Cash in Lieu Thereof, page G-9.
8. Certificate Stating Facts Authorizing the Governing Body to Waive Park Dedication Under the Five Acre, Single Family Dwelling Exemption, page G-10. (No longer applies).
- 8a. Covenant for Use with the Five Acre, Single Family Dwelling Exemption, page G-11. (No longer applies).
9. Certificate of Examining Land Surveyor - Final Plat, page G-12.
10. Certificate of County Treasurer, page G-12.
11. Certificate of Final Plat Approval, page G-13.
12. Certificate of Filing by Clerk and Recorder, page G-13.

1. Certificate of Completion of Public Improvements (To be submitted with application for approval of final subdivision plat, if applicable)

CERTIFICATE OF COMPLETION

I, (Name of Subdivider), and I, (Name of Subdivider's Registered Engineer), a registered professional engineer licensed to practice in the State of Montana, hereby certify that the following public improvements, required as a condition of approval of \_\_\_\_\_ Subdivision, have been installed in conformance with the attached engineering specifications and plans: (List the improvements actually installed).

\_\_\_\_\_  
Signature of Subdivider

\_\_\_\_\_  
Date

STATE OF MONTANA

)  
: ss.  
)

County of \_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_, before me a Notary Public for the State of Montana, personally appeared (Subdivider's name), known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he/she executed the same.

(Notary's Seal)

\_\_\_\_\_  
Notary Public for the State of Montana

Residing at \_\_\_\_\_, Montana

My Commission Expires \_\_\_\_\_

\_\_\_\_\_  
Signature of Professional Engineer

\_\_\_\_\_  
Date

\_\_\_\_\_  
Registration No.

\_\_\_\_\_  
Address

(Engineer's Seal)

## 2. Subdivision Improvements Agreement

The parties to this agreement are \_\_\_\_\_ ("the Developer") and Lewis and Clark County ("the County").

The Developer seeks permission to subdivide a tract within the County to be known as \_\_\_\_\_ Subdivision and to defer construction of improvements.

The parties, in consideration of the mutual promises, covenants, and obligations authorized by state law and the County subdivision regulations and contained herein, hereby agree:

1. Effective Date: The effective date of this Agreement shall be the date final subdivision plat approval is granted by the County.

2. Description: The tract the developer seeks to subdivide is located in Lewis and Clark County and is more particularly described as:

3. Required Improvements, Standards, Specifications and Estimated Costs: The Developer shall construct and install to standards and specifications required by law and regulation, at his own expense, the improvements set forth below:

The Developer's obligation to complete the improvements shall arise upon final subdivision plat approval, shall not be conditioned on the commencement of construction in the development or sale of any lots or improvements within the subdivision, and shall be independent of any obligations of the County contained in this Agreement.

4. Security: To secure the performance of obligations under this Agreement, the Developer shall provide the County on or before the effective date, security in the amount of \$ \_\_\_\_\_. The security shall expire not sooner than \_\_\_\_\_ years after the effective date of this Agreement. The security shall be transferred to the County upon presentation of: (1) an affidavit executed by an authorized County official stating that the Developer is in default under this Agreement; (2) proof of service of notice of default upon the developer; and (3) the original of this agreement.

5. Warranty: The Developer warrants that each and every improvement shall be free from defects for a period of 1 year from the date the County accepts the dedication of the last improvement required to be completed by the Developer.

6. Commencement and Completion Periods: The Developer shall complete all of the required improvements within \_\_\_\_\_ years from the effective date of this Agreement.

7. Compliance with Law: The Developer shall comply with all relevant laws, ordinances, regulations and requirements in effect on the effective date of this agreement.

8. Inspection and Certification: (A) The County shall review the completion of the improvements within 14 days of notice by the Developer that the improvements are complete. Before requesting County review of completion of any improvement the Developer shall present to the County valid lien waivers from all persons providing materials or performing work on the improvement and shall present an acknowledged certification by the project engineer employed by the developer that the improvements meet standards and specifications required by law and this agreement.

(B) Notice of completion does not constitute a waiver by the County of its right to have the Developer's security transferred to the County in the event defects in or failure of any improvement are found following the notice of completion.

9. Notice of Defect: The County shall provide notice to the Developer whenever an improvement does not conform to standards and specifications or is otherwise defective. The Developer shall have 30 days from the date the notice is issued to remedy the defect. The County may not declare a default under this Agreement during the 30 day remedy period unless this agreement is to expire prior to the expiration of the 30 day remedy period. The Developer shall have no right to correct the defect in, or failure of, any improvement found after the County accepts dedication of the improvement(s).

10. Reduction of Security: After the County accepts completion of any improvement, the amount the County is entitled to draw on the security shall be reduced by an amount equal to 90 percent of the estimated cost of the improvement as shown in Section 3 of this document. Upon the certification of completion of all of the improvements, the balance (10 percent of the original security) that may be drawn under the security shall be available to the County for one year.

11. Use of Proceeds: The County shall use the security only for the purposes of completing the improvements or correcting defects in or failure of the improvements.

#### OTHER PROVISIONS

12. Events of Default: The following shall constitute a default by the Developer:

- a. failure to complete construction of the improvements within \_\_\_\_\_ years of final subdivision plat approval;
- b. failure to remedy the defective construction of any improvement within the remedy period;
- c. insolvency of the Developer or the filing of a petition for bankruptcy;
- d. foreclosure of the property or assignment or conveyance of the property in lieu of foreclosure.

13. Measure of Damages: The measure of damages for breach of this Agreement shall be the reasonable cost of completing the improvements. The estimated cost of the improvements as specified in Section 2 of this document shall be prima facie evidence of the minimum cost of completion. However, neither that amount nor the amount of the security establishes the maximum amount of the Developer's liability. The County shall be entitled to complete all unfinished improvements at the time of default regardless of the extent to which development has taken place in the Subdivision or whether development ever was commenced.

14. County Rights Upon Default: Upon default, the County may draw on the security up to the face amount of the improvements not previously certified by the County. The County shall have the right to complete improvements itself or contract with a third party for completion.

15. Indemnification: The Developer agrees to indemnify and hold the County harmless for and against all claims, costs and liability of every kind and nature, for injury or damage received or sustained by any person or entity in connection with, or on account of the performance of work under this Agreement. The Developer is not an employee or agent of the County.

16. Amendment or Modification: The Parties to this Agreement may amend or modify this Agreement only by written agreement.

17. Attorney's Fees: Should either party be required to resort to litigation, arbitration or mediation to enforce the terms of this Agreement, the prevailing party, whether plaintiff or defendant, shall be entitled to costs, including reasonable attorney's fees and expert witness fees. If the court, arbitrator, or mediator awards relief to both parties, each shall bear its own costs in their entirety.

18. Third Party Rights: No person or entity who is not a party to this Agreement shall have any right of action under this Agreement. The county seeks to protect the rights and interests of its citizens. This Agreement is to protect the County and is not intended for the benefit of contractors, suppliers, laborers or others providing work, services, or materials to the Subdivision, and is not intended for the benefit of lot or home buyers.

19. Scope: This Agreement constitutes the entire agreement between the parties and no statement, promise, or inducement not contained in this Agreement shall be binding on the parties.

20. Assigns: The benefits of this Agreement to the Developer may not be assigned without the express written approval of the County. Such approval may not be withheld unreasonably, but any unapproved assignment is void. The right of the County to assign its rights under this Agreement is not prohibited.

21. Successor Liability: Except as otherwise herein provided, this agreement shall be binding upon the heirs, successors, personal representatives, administrators, and assigns of the parties hereto.

22. Severability: If any part, term or provision of this Agreement is held by the courts to be illegal, the illegality shall not affect the validity of any other part, term, or provision, and the rights of the parties shall be construed as if the part, term, or provision were never part of the Agreement.

\_\_\_\_\_  
Signature of Developer

STATE OF MONTANA )  
 ) ss.  
County of \_\_\_\_\_ )

On this \_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, before me a Notary Public for the State of Montana, personally appeared (Subdivider's Name), known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he/she executed the same.

\_\_\_\_\_  
Notary Public for the State of Montana

(Notary's Seal)

Residing at \_\_\_\_\_, Montana

My Commission Expires \_\_\_\_\_

\_\_\_\_\_  
Signature of Chairman,  
Board of County Commissioners

ATTEST:

\_\_\_\_\_  
County Clerk and Recorder

(Seal)

ATTACHMENT: Financial security

3. Irrevocable Letter of Credit

Letter of Credit No. \_\_\_\_\_

Date: \_\_\_\_\_

Expiration Date: \_\_\_\_\_

Amount: \_\_\_\_\_

Lewis and Clark County Commissioners  
316 North Park Avenue  
City-County Building  
Helena, MT 59623

We hereby establish in your favor our Irrevocable Letter of Credit No. \_\_\_\_\_ for the account of \_\_\_\_\_, available by your drafts at sight up to an aggregate amount of \$ \_\_\_\_\_.

Should \_\_\_\_\_ default or fail to complete the improvements under the terms specified in the attached subdivision improvements agreement for \_\_\_\_\_ Subdivision we shall pay on demand your sight draft or drafts for such funds, to the limit of credit set forth herein, as are required to complete said improvements.

All drafts must indicate the number and date of this Letter of Credit and be accompanied by a signed statement of an authorized official that: (1) the Developer has defaulted under the terms of the Subdivision Improvements Agreement; and (2) the amount is drawn to install improvements not constructed by the Developer.

All drafts must be presented prior to \_\_\_\_\_ and this Letter of Credit must accompany the final draft for payment. Drafts drawn hereunder must be by sight draft marked: Drawn under \_\_\_\_\_, Letter of Credit No. \_\_\_\_\_ dated \_\_\_\_\_, and the amount endorsed on the reverse hereof by the lending institution.

Unless otherwise stated, this Letter of Credit is subject to the Uniform Customs and Practices for Commercial Documentary Credits (1983 Revision) International Chamber of Commerce. We hereby agree with the drawers, endorsers and bona fide holders of the drafts drawn under and in compliance with the terms of this Credit that these drafts shall be duly honored upon presentation to the drawee.

This letter of credit may not be withdrawn or reduced in any amount prior to its expiration date except by your draft or written release.

\_\_\_\_\_  
Lending Institution

\_\_\_\_\_  
Signature and Title of Authorized Official

ATTEST:

4. Certificate of Surveyor - Final Plat

STATE OF MONTANA

)  
:ss.  
)

County of \_\_\_\_\_

I, (Name of Surveyor), a registered Land Surveyor do hereby certify that I have performed the survey shown on the attached plat of (Name of Subdivision); that such survey was made on (Date of Survey); that said survey is true and complete as shown and that the monuments found and set are of the character and occupy the positions shown thereon.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
Signature of Surveyor

(Surveyor's Seal)

Registration No. \_\_\_\_\_

\_\_\_\_\_  
Address

5. Certificate of Dedication - Final Plat

(I) (We), the undersigned property owner(s), do hereby certify that (I) (We) have caused to be surveyed, subdivided and platted into lots, blocks, streets and alleys as shown by the plat hereto annexed, the following described land in (Lewis and Clark County), to-wit:

(Exterior boundary description of area contained in plat and total acreage)

The above described tract of land is to be known and designated as \_\_\_\_\_ Subdivision, and the lands included in all (streets, avenues, drainage easements, alleys, parks, public areas, etc.) shown on said plat are hereby... (Specific language will vary for each subdivision; consult with planning staff.).

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
(Acknowledged and notarized signatures of all record owners of platted property)



6. Consent to Dedication by Encumbrancers, If Any

(I) (We), the undersigned encumbrancer(s), do hereby join in and consent to the plat attached hereto and release (my) (our) respective liens, claims and encumbrances as to any portion of said lands shown on such plat as being dedicated to the use of the public forever.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

(Acknowledged and notarized signatures of all  
encumbrancers of record)

7. Certificate of Waiver of Park Land Dedication and Acceptance of Cash in Lieu Thereof

I, (County Clerk and Recorder) of Levis & Clark County, Montana, do certify that the following order was made by the Board of County Commissioners of Levis and Clark County at a meeting thereof held on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, and entered into the proceedings of said Body to-wit: "Inasmuch as the dedication of park land within the platted area of (Name of Subdivision) is undesirable for the reasons set forth in the minutes of this meeting, it is hereby ordered by the Board of County Commissioners that land dedication for park purposes be waived and that a cash payment in lieu of park land, in the amount of \_\_\_\_\_ dollars (\$\_\_\_\_\_), be accepted in accordance with the provisions of Title 76, Chapter 3, MCA."

In witness whereof, I have hereunto affixed the seal of Levis and Clark County, Montana this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

(Seal)

\_\_\_\_\_  
Signature of Clerk & Recorder

9. Certificate of Examining Land Surveyor Where Required - Final Plat

I, (Name of Examining Land Surveyor), acting as an Examining Land Surveyor for Lewis and Clark County, Montana, do hereby certify that I have examined the final plat of \_\_\_\_\_ Subdivision and find that the survey data shown thereon meet the conditions set forth by or pursuant to Title 76, Chapter 3, Part 4, MCA.

Dated this \_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
Signature of Examining Land Surveyor

(Seal of Examining Land  
Surveyor)

(Name of Surveyor)

Registration No. \_\_\_\_\_

\_\_\_\_\_  
Address

10. Certificate of County Treasurer

I hereby certify, pursuant to Section 76-3-611(1)(b), MCA, that no real property taxes assessed and levied on the land described on this plat and encompassed by the proposed \_\_\_\_\_ Subdivision are delinquent.

Property Identification Number (PIN) \_\_\_\_\_

Dated this \_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

(Seal)

\_\_\_\_\_  
Treasurer, Lewis and Clark County, Montana

11. Certificate of Final Plat Approval

The County Commission of Lewis and Clark County, Montana does hereby certify that it has examined this subdivision plat and having found the same to conform to law, approves it, and hereby accepts the dedication to public use of any all lands shown on this plat as being dedicated to such use, this the \_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_. . . (Specific language will vary for each subdivision; consult with planning staff.).

\_\_\_\_\_  
Signature of Commissioner

\_\_\_\_\_  
Signature of County Attorney

\_\_\_\_\_  
Signature of Commissioner

\_\_\_\_\_  
Signature of County Surveyor

\_\_\_\_\_  
Signature of Commissioner

\_\_\_\_\_  
Signature of County Planning Director

ATTEST: \_\_\_\_\_  
Lewis and Clark County Clerk and Recorder

(Seal)

12. Certificate of Filing by Clerk and Recorder

STATE OF MONTANA

)  
: ss.  
)

County of \_\_\_\_\_

Filed for record this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_.

\_\_\_\_\_  
Clerk and Recorder, Lewis and Clark  
County, Montana

## APPENDIX H

### Levis and Clark County Road Naming Regulations

1. These regulations shall cover all unincorporated areas of Levis and Clark County.
2. All roadways created by subdivision shall be named by the developer in accordance with road naming policies.
3. All prospective road names shall be submitted to the county planning department to be checked against existing names.
4. No roadway shall be given a name that is currently in use elsewhere in the county.
5. No roadway shall be given a name that sounds the same as another road name currently in use elsewhere in the county, e.g. Diehl and Deal.
6. All roadways running generally east and west shall use the term road, e.g. Sierra Road.
7. Roads running generally north and south shall use the term drive, e.g. Green Meadow Drive.
8. A road running diagonally will be given the term road or drive depending on its general direction.
9. Persons wishing to name an unnamed road must have a simple majority of landowners in agreement with the prospective name.
10. As per Resolution 87-61, the county planning department may assign or re-assign road names to promote an orderly road naming system, and may charge appropriate fees for such services.
11. Any road name changes shall be done so as to affect the least number of people.
12. Road names and road name changes shall be submitted to the County Commissioners only if necessary to resolve disputes.
13. Emergency and other service providers shall be notified of all new names and name changes by the county planning department.
14. Additional provisions for naming other types of roads are as follows:
  - Way -- a north/south road less than 1000' in length
  - Place -- a east/west road less than 1000' in length
  - Court -- any cul-de-sac with a circle at one end, and less than 1000' in length.
  - Lane -- a meandering roadway less than 2500' in length

15. Types of roadways, e.g. road, court, shall not be used to distinguish road names, e.g. Forest Road, Forest Court.
16. Extensions of roadways crossing jurisdictional boundaries shall use the same name on either side of the boundary, e.g. Montana Avenue in the city and the county.
17. Extensions of roadways shall be named the same as the road from which they extend.

## APPENDIX I

### Definitions

Whenever the following words or phrases appear in this text, they shall have the meaning assigned to them by this section. When not inconsistent with the context, words used in the present tense shall include the future; the singular shall include the plural, and the plural the singular; the word "shall" is always mandatory, and the word "may" indicates use of discretion in making decisions.

1. ACCESS, LEGAL: All lots of the subdivision abut a public road easement or right-of-way, and that all necessary approach permits have been obtained.
2. ACCESS, PHYSICAL: All lots of the subdivision abut a road constructed in accordance with the standards of these regulations and which provides vehicular access to each lot.
3. AGGRIEVED PARTY: A person who can demonstrate a specific personal and legal interest, as distinguished from a general interest, who has been or is likely to be specially and injuriously affected by the decision of the governing body to approve, conditionally approve, or disapprove a proposed subdivision plat.
4. APPLICATION DEADLINE: The periodic deadlines (approximately semi-monthly or monthly) for application submittals to be considered within a particular review timeframe. Such deadlines are necessary for efficient administration of the MT Subdivision & Platting Act and these regulations. The statutory review timeframes (60 or 35 days) would always begin on an application deadline, if the submitted application was determined to be complete.
5. BLOCK: A group of lots, tracts or parcels within well defined and fixed boundaries.
6. BUILDING SETBACK LINE: An imaginary line establishing the minimum distance that structures may be located from lot lines, street rights-of-way, natural drainages, or other physical or legal boundaries.
7. CERTIFICATE OF SURVEY: A drawing of a field survey prepared by a registered land surveyor for the purpose of disclosing facts pertaining to boundary locations.
8. COMPREHENSIVE PLAN: A master plan as defined in Section 76-1-103 MCA.
9. COMMERCIAL: A commercial use is any business, retail trade or service activity.
10. CONDOMINIUM: A form of individual ownership with unrestricted right of disposal of one or more units in a multiple unit project with the land and all other parts of the project held in common ownership or use with owners of the other units.
11. COVENANT: A written agreement (recorded with the Clerk and Recorder) of two or more parties by which any of the parties pledges himself to the others

that something is done or shall be done, or sets forth provisions for the use of land.

12. DEDICATION: The deliberate appropriation of land by an owner for any general and public use, reserving to the landowner no rights which are incompatible with the full exercise and enjoyment of the use to which the property has been devoted. Acceptance of any dedications to public use is the discretion of the governing body.

13. DIVISION OF LAND: The segregation of one or more parcels of land from a larger tract held in single or undivided ownership by transferring, or contracting to transfer, title to or possession of a portion of the tract or properly filing a certificate of survey or subdivision plat establishing the identity of the segregated parcels pursuant to the Montana Subdivision and Platting Act. Provided that where required by the Act the land upon which an improvement is situated has been subdivided in compliance with the Act, the sale, rent, lease or other conveyance of one or more parts of a building, structure or other improvement situated on one or more parcels of land is not a division of land and is not subject to the terms of the Act. The conveyance of a tract of record or an entire parcel of land that was created by a previous division of land is not a division of land.

14. DRIVEWAY: A private road less than 150 feet in length that services only one residence.

15. DWELLING UNIT: Any building or portion thereof providing complete, independent and permanent living facilities for one family.

16. EASEMENT: A right to use land, other than as a tenant, for a specific purpose; such right being held by someone other than the owner who holds title to the land.

17. ENGINEER (REGISTERED PROFESSIONAL ENGINEER): A person licensed in conformance with the Montana Professional Engineers' Registration Act (Title 37, Chapter 67, MCA) to practice engineering in the State of Montana.

18. EXAMINING LAND SURVEYOR: A professional land surveyor duly appointed by the governing body to review surveys and plats submitted for filing.

19. FLOOD: The water of any watercourse or drainageway which is above the bank or outside the channel and banks of such watercourse or drainageway.

20. FLOOD OF 100 YEAR FREQUENCY: A flood magnitude expected to recur on the average of once every 100 years, or a flood magnitude which has a one percent chance of occurring in any given year.

21. FLOODPLAIN: The area adjoining the watercourse or drainageway which would be covered by the flood water of a flood of 100 year frequency.

22. FLOODWAY: The channel of a watercourse or drainageway and those portions of the floodplain adjoining the channel which are reasonably required to carry and discharge the floodwater of any watercourse or drainageway.

23. **GOVERNING BODY:** The board of county commissioners, or the governing authority of any city or town organized pursuant to law.
24. **LOCAL FIRE AUTHORITY:** A local fire district, fire service area, or the county fire marshal.
25. **LOCATION MAP:** A small map showing the location of a tract of land in relation to a larger land area.
26. **LOT:** A parcel, plot or other land area created by subdivision for sale, lease, or rent.
27. **LOT MEASUREMENTS:**
- a. **Lot Depth --** The length of a line drawn perpendicularly to the front lot line and extending to the rear lot line.
  - b. **Lot Width --** The width of the lot measured by averaging its two narrower dimensions.
  - c. **Lot Frontage --** The width of the front lot line.
  - d. **Lot Area --** The area of a lot determined exclusive of street, highway, alley, road, or other rights-of-way.
28. **LOT TYPES:**
- a. **Corner Lot:** A lot located at the intersection of two streets.
  - b. **Interior Lot:** A lot with frontage on only one street.
  - c. **Through Lot:** A lot whose front and rear lines both abut on a street.
29. **MINOR SUBDIVISION:** A subdivision containing five (5) or fewer parcels where proper access to all lots is provided, where no land in the subdivision will be dedicated to public use for parks or playgrounds and which has been approved by the Department of Health and Environmental Sciences, where required.
30. **MOBILE HOME:** A factory-assembled structure or structures equipped with the necessary service connections and made so as to be readily movable as a unit or units on its (their) own running gear and designed to be used as a dwelling unit without a permanent foundation.
31. **MOBILE HOME LOT:** A designated portion of a mobile home park designed for the accommodation of one mobile home and its accessory buildings or structures for the exclusive use of the occupants.
32. **MOBILE HOME PARK:** A tract of land providing two or more mobile home lots for lease or rent to the general public.
33. **MOBILE HOME STAND:** That area of a mobile home lot which has been prepared for the placement of a mobile home.



34. **MONUMENT (PERMANENT MONUMENT):** Any structure of masonry, metal, or other permanent material placed in the ground, which is exclusively identifiable as a monument to a survey point, expressly placed for surveying reference.

35. **OCCASIONAL SALE:** A previous exemption that provided for a single division of a tract of land during a period of one year. The occasional sale exemption was formerly contained in Section 76-3-207 (1)(d), MCA; it was repealed by the 1993 Legislature.

36. **OPEN SPACE:** A land or water area devoid of buildings and other physical structures except where accessory to the provision of recreation.

37. **ORIGINAL TRACT:** A tract of land created as of July 1, 1973.

38. **OVERALL DEVELOPMENT PLAN:** The plan of a subdivision design for a single tract proposed to be subdivided by stages.

39. **PLANNED UNIT DEVELOPMENT (PUD):** A land development project consisting of residential clusters, industrial parks, shopping centers, or office building parks, that comprise a planned mixture of land uses built in a prearranged relationship to each other and having open space and community facilities in a common ownership or use.

40. **PLANNING BOARD:** A city planning board, a county planning board or a joint city-county planning board formed pursuant to Title 76, Chapter 1, MCA.

41. **PLAT:** A graphic representation of a subdivision showing the division of land into lots, parcels, blocks, streets, and alleys, and other divisions and dedications.

- a. **Preliminary Plat:** A neat and scaled drawing of a proposed subdivision showing the layout of streets, alleys, lots, blocks, and other elements of a subdivision which furnish a basis for a review by a governing body.
- b. **Final Plat:** The final drawing of the subdivision and dedication required to be prepared for filing for record with the county clerk and recorder and containing all elements and requirements set forth in these regulations and the Montana Subdivision and Platting Act. (Title 76, Chapter 3, MCA).
- c. **Vacated Plat:** A plat which has been removed from the county record under provisions of these regulations and the Montana Subdivision and Platting Act (Title 76, Chapter 3, MCA).
- d. **Amended Plat:** The final drawing of any change to a platted subdivision required to be filed with the clerk and recorder and containing all elements and requirements set forth in these regulations and the Montana Subdivision and Platting Act. (Title 76, Chapter 3, MCA).

42. **PUBLIC IMPROVEMENT:** Any structure or facility constructed to serve the residents of a subdivision or the general public such as parks, streets and roads, sidewalks, curbs and gutters, street lighting, utilities and systems for water supply, sewage disposal and drainage.
43. **RECREATIONAL VEHICLE PARK:** A place used for public camping where persons can rent space to park individual camping trailers, pick-up campers, motorhomes, travel trailers or automobiles for transient dwelling purposes.
44. **RECREATIONAL VEHICLE SPACE:** A designated portion of a recreational vehicle park designed for the placement of a single recreational vehicle and the exclusive use of its occupants.
45. **RIGHT-OF-WAY:** A strip of land dedicated or acquired for use as a public way.
46. **STATE:** The State of Montana
47. **STREET TYPES:** For purposes of these regulations, street types are defined as follows:
- a. **Alley:** A street used primarily for vehicular access to the rear of properties which abut on and are served by public roads.
  - b. **Arterial:** a street or road having the primary function of moving traffic and the secondary function of providing access to adjacent land. Arterials generally carry relatively large volumes of traffic. Arterials have two to four lanes of moving traffic and provide limited access to abutting property.
  - c. **Collector:** A street or road having the equally important functions of moving traffic and providing access to adjacent land. Collector streets have two moving traffic lanes and may have two parking lanes.
  - d. **Local Streets:** A street or road having the primary function of serving abutting properties, and the secondary function of moving traffic. Local streets have two moving lanes of traffic, may have one or two parking lanes and provide access to abutting properties.
  - e. **Dead-end Street:** A street having only one outlet for vehicular traffic.
  - f. **Half-Street:** A portion of the width of a street, usually along the outside perimeter of a subdivision, where the remaining portion of the street must be located on adjacent property.
  - g. **Cul-de-sac:** A street having only one outlet for vehicular traffic and terminating in a turn-around area.
  - h. **Loop:** A local street which begins and ends on the same street, generally used for access to properties.

- i. Frontage Access (Service Road): A local or collector street, usually parallel and adjacent to an arterial or major collector, which provides access to abutting properties and controls traffic access to arterials or collectors.
- j. Public Road: A road is public if its right-of-way has been dedicated for public use.

48. SUBDIVIDER: Any person, firm or corporation, or other entity who causes land to be subdivided or who proposes a subdivision of land.

49. SUBDIVISION: A division of land or land so divided, which creates one or more parcels containing less than one hundred sixty (160) acres that cannot be described as a one-quarter aliquot part of a United States Government Section, exclusive of public roadways, in order that the title to or possession of the parcels may be sold, rented, leased, or otherwise conveyed, and includes any resubdivision; and further includes a condominium or area, regardless of its size, that provides or will provide multiple space for recreational camping vehicles, or mobile homes. A subdivision comprises only those parcels containing less than one hundred sixty (160) acres which have been segregated from the tract of record. The subdivision plat must show all the parcels whether contiguous or not. Provided, however, condominiums constructed on land divided in compliance with the Montana Subdivision and Platting Act are exempt from the provisions of the Act [76-3-103(14), MCA].

50. SURVEYOR (PROFESSIONAL LAND SURVEYOR): A person licensed in conformance with the Montana Professional Engineer Registration Act (Title 37, Chapter 67, MCA) to practice surveying in the State of Montana.

51. SWALE: A drainage channel or shallow depression designed to direct surface water flow.

52. TRACT: A single parcel of land held in single and undivided ownership as shown by the official records on file in the office of the county clerk and recorder.

53. TRACT OF RECORD:

(a) A "tract of record" is an individual parcel of land, irrespective of ownership, that can be identified by legal description, independent of any other parcel of land, using the documents on file in the records of the county clerk and recorder's office.

(b) Each individual tract of record continues to be an individual parcel of land unless the owner of the parcel has joined it with other contiguous parcels by filing with the county clerk and recorder:

(i) an instrument of conveyance in which the aggregated parcels have been assigned a legal description that describes the resulting single parcel and in which the owner expressly declares the owner's intention that the tracts be merged; or

(ii) a certificate of survey or subdivision plat that shows that

the boundaries of the original parcels have been expunged and depicts the boundaries of the larger aggregate parcel.

(c) An instrument of conveyance does not merge parcels of land under subsection 53.(b)(i) unless the instrument states, "This instrument is intended to merge individual parcels of land to form the aggregate parcel(s) described in this instrument" or a similar statement, in addition to the legal description of the aggregate parcels, clearly expressing the owner's intent to effect a merger of parcels.

54. VICINITY SKETCH: A map at a scale suitable to locate the proposed subdivision, showing the boundary lines of all adjacent properties and streets and other information necessary to determine the general location of the proposed subdivision.

55. WATERCOURSE: A natural depression or channel which gives direction to a current of water at any time of the year.

## APPENDIX J

### CRITERIA FOR REVIEW OF CLAIMED EXEMPTIONS FROM PROVISIONS OF SUBDIVISION AND PLATTING ACT

#### STATEMENT OF INTENT

The intent and purpose of this document is to provide administrative procedures for implementing Sections 76-3-201 and 207, MCA, of the Montana Subdivision and Platting Act (the Act). These procedures are designed to provide persons administering the Act criteria for evaluating the purpose of claimed exemptions, and further, to provide persons claiming an exemption opportunities for demonstrating their eligibility for such claims. The criteria set forth herein, are to be used as guidelines for evaluation of such eligibility and are not in themselves conclusive. Further, said criteria do not presume that prior uses of exemptions were unlawful.

#### SECTION A. APPLICATION AND INITIAL REVIEW

1. Any person (which term includes an individual, firm, association, partnership, corporation, and public agency) seeking exemption from the subdivision review requirements of the Montana Subdivision and Platting Act, Section 76-3-101 et seq., MCA (the Act), and/or the Lewis and Clark County Subdivision Regulations (the Regulations), shall apply for the exemption by furnishing evidence of entitlement to the claimed exemption to the Clerk and Recorder. Such evidence may include, but is not limited to, a certificate of survey, a completed and signed "certificate of survey exemption affidavit," and documentation of ownership.

2. A Review Committee (Committee), appointed by the Board of County Commissioners (Board) and consisting of the Clerk and Recorder, Planning Director, and County Attorney (or their designees), shall review evidence submitted by the applicant on the basis of the criteria set forth in these regulations and in other pertinent law. Within ten (10) working days after submission of the documents, the Committee shall make written findings and shall notify the applicant in writing of the Committee's determination.

3. If the Committee determines that the applicant is eligible for the claimed exemption under these criteria and if the certificate of survey complies with all other applicable statutes and regulations, the certificate of survey may be filed.

4. If the Committee determines that the applicant is not eligible for the claimed exemption, it shall notify the applicant by certified mail of the reasons for the denial. The applicant shall have ten (10) working days from the date of denial to provide the Committee any additional evidence to prove the applicant is eligible for the exemption. The Committee shall have ten (10) working days to review any new evidence. In accordance with Section B. below, the applicant may also within ten (10) working days from the date of denial, withdraw the application or submit to the Board a written request to appeal the decision of the Committee and to hold a hearing. An appeal request must include a copy of the Committee's written findings.

5. If the applicant provides additional evidence and the Committee reaffirms that the applicant is not eligible for an exemption, it shall notify the Board and notify the applicant by certified mail of the Committee's reasons for its determination. Thereafter, the applicant may withdraw the application or, within ten (10) working days from the date of denial, submit to the Board, a written request to

appeal the decision of the Committee and to hold a hearing. An appeal request in this instance must include a copy of the Committee's written findings.

#### SECTION B. HEARING PROCEDURE

1. Upon receipt of a written request for a hearing, the Board shall set a time and place for the hearing. At least five (5) days prior to the date set for the hearing the Board shall send notice of the hearing to the applicant by certified mail.

2. At the hearing, the applicant has the burden of proof by a preponderance of the evidence and shall first present evidence. Such evidence should include response to the criteria identified as reasons for denial and any other pertinent information to demonstrate that the use of the proposed exemption would not be an evasion of the Act. The Committee shall then present its evidence. The applicant may then present rebuttal evidence. The hearing shall then be closed.

3. The Board shall approve or disapprove the proposed exemption within fifteen (15) working days of the receipt of the request for hearing. The Board shall provide written notification of its decision and the reasons therefor, to the applicant and the Clerk and Recorder.

#### SECTION C. GENERAL REQUIREMENTS

1. The use of any exemption set forth in Sections 76-3-201 and 76-3-207, MCA, for the purposes of evading subdivision review under the Act or the Regulations is prohibited. These exemptions are listed below:

**76-3-201. Exemption for certain divisions of land.**

- (1) order of a court, operation of law, or eminent domain;
- (2) security for construction mortgages, liens, or trust indentures;
- (3) interest in oil, gas, minerals, or water severed from the surface ownership of real property;
- (4) cemetery lots;
- (5) reservation of a life estate; and
- (6) lease or rental for farming and agricultural purposes.

**76-3-207. Subdivisions exempted from review but subject to survey requirements.**

- (1)(a) relocation of common boundary lines outside of platted subdivisions;
- (b) outside of platted subdivisions a single gift or sale to a member of the landowner's immediate family;
- (c) divisions made outside of platted subdivisions by gift, sale, or agreement to buy and sell in which the parties to the transaction enter a covenant running with the land and revocable only by mutual consent of the governing body and the property owner that the divided land will be used exclusively for agricultural purposes;
- (d) relocation of common boundaries for five or fewer lots within a platted subdivision;
- (e) relocation a common boundary line between a single lot within a platted subdivision and adjoining land outside a platted subdivision; and

(f) occasional sale (not valid after April 6, 1993).

2. In determining whether an exemption is claimed to evade subdivision review the Committee, and when necessary, the Board, shall consider the specific exemption criteria and presumptions set forth in these criteria and may also consider other evidence including but not limited to:

- a. The prior history of the tract;
- b. The proposed configuration of the particular tract to adjacent tracts, if the proposed exemptions were to be granted; and,
- c. The pattern, if any, of exemptions used by the applicant and/or the applicant's immediate family, and/or other persons having any business, economic, ownership or other relationship with the applicant that has or will result in the creation of a subdivision without review by the Board.

3. A certificate of survey for which an exemption is claimed may not be filed by the Clerk and Recorder unless it bears a certificate acknowledged by all owners of record stating that the division is exempted from review as a subdivision and quoting the applicable exemption and citing the appropriate MCA section. A certificate of survey claiming an exemption other than a gift or sale to a member of the immediate family may divide a parcel once only. Submittal of a certificate of survey to the Clerk and Recorder must be accompanied by a completed and signed Certificate of Survey Exemption Affidavit form and a Certificate of Survey Report form.

#### SECTION D. EXEMPTION CRITERIA

1. RELOCATION OF COMMON BOUNDARY LINES [Section 76-3-207(1)(a),(d), and/or (e), MCA]:
  - a. The relocation of common boundary lines exemption is used to change the location of a boundary line between adjacent parcels of record.
  - b. Certificates of survey showing the boundaries and areas of land, shall be accompanied by a deed transferring interest in the parcel being created, or a contract for deed or a notice of purchaser's interest. If no such document can be recorded prior to the filing of the certificate of survey, the applicant must submit an acknowledged statement from an escrow agent setting forth the location of the deed or contract being held in escrow and how long it will be held in escrow and a photocopy of the document.
  - c. There is a rebuttable presumption that any boundary relocation is or will be an inappropriate use of the exemption, under the Act or the Regulations, thereby making the proposed division and transfer subject to subdivision review, if after July 1, 1973:
    - (1) It creates a parcel of less than 160 acres which, prior to the relocation, had more than 160 acres; or
    - (2) It creates any additional parcel of land less than 160 acres in size; or

- (3) It fits a previously established pattern of land divisions and land transfers; or
  - (4) It will create three or more parcels that were subdivided from the original tract; or
  - (5) The applicant has used exemptions to create parcels from the original tract or other tracts; or
  - (6) The use of the exemption is in violation of statutes, case law, administrative rules, or Attorney General opinions; or
  - (7) The proposed division of land has been previously denied under any other exemption.
2. EXEMPTION AS A SINGLE GIFT OR SALE TO A MEMBER OF THE IMMEDIATE FAMILY [Section 76-3-207(1)(b), MCA]:
- a. A "member of the immediate family" may include only the grantor's spouse, children by blood or adoption, and parents.
  - b. There is a rebuttable presumption that a division of land and a transfer, proposed as an exempt "gift or sale to family member," is or will be an inappropriate use of the exemption under the Act and the Regulations, thereby making the proposed division and transfer subject to subdivision review, if after July 1, 1973:
    - (1) The original or any subsequent tract, from which the parcel created for transfer is to be segregated, was exempted from subdivision review pursuant to the exemptions listed in Section C.1.; or
    - (2) The parcel to be transferred is not intended for a homestead for the transferee; or
    - (3) The transfer could be accomplished by a "relocation of common boundary lines" under Section C.1.; or
    - (4) It will become one of three or more parcels that were subdivided from the original tract; or
    - (5) The use of the exemption is in violation of statutes, case law, administrative rules, or Attorney General opinions; or
    - (6) The proposed division of land fits a pattern of land divisions and land transfers; or
    - (7) The applicant has used exemptions to create parcels from the original tract or other tracts; or
    - (8) The proposed division of land has been previously denied under any other exemption; or



(9) The parent purports to act as a guardian for a minor child without a trust instrument.

(10) The grantor intends to divide land for the purpose of a gift or sale to the grantor's spouse.

3. AGRICULTURAL EXEMPTION [Section 76-3-207(1)(c), MCA]:

a. An agricultural exemption is a division of land made outside of a platted subdivision by sale or agreement to buy and sell where the parties to the transaction and the governing body enter a covenant running with the land, revocable only by mutual consent of the governing body and the property owners, that the divided land will be used exclusively for agricultural purposes.

b. Creation, Revocation, and Retention of the Agricultural Exemption:

Creation of parcels by use of the agricultural exemption, and the subsequent revocation or retention of the agricultural covenant, shall be subject to the provisions of Resolution 1986-55, entitled "Resolution of the Board of County Commissioners Setting Forth a Policy Relating to Divisions of Land for Agricultural Purposes, Exempt From Review under the Montana Subdivision and Platting Act."

4. EXEMPTION TO PROVIDE SECURITY FOR CONSTRUCTION MORTGAGES, LIENS, OR TRUST INDENTURES [Section 76-3-201(2), MCA]:

a. The construction mortgage exemption is used to segregate land for the purpose of providing security for construction mortgages, liens, or trust indentures.

b. There is a rebuttable presumption that a proposed use of this exemption, or a division of land by use of this exemption, is subject to subdivision review, if after July 1, 1973:

(1) The proposed division, by its location or configuration could become or create three or more parcels that were subdivided from the original tract; or

(2) The applicant has used exemptions to create parcels from the original tract or other tracts; or

(3) The proposed division of land has been previously denied under any other exemption; or

(4) Upon foreclosure of the security, three or more parcels would be created.

(5) There is no evidence of foreclosure of the mortgage, lien, or trust indenture.

## APPENDIX K

### Explanation of Design Standards for County Streets and Roads (Public and Private)

In order to formulate county design standards for streets and roads, Staff interviewed the County Road Supervisor, the County Surveyor, the City Public Works Director and a consulting engineer.

In addition, Staff reviewed numerous studies, design standards from other states, the American Association of State Highway and Transportation Officials (AASHTO) and Institute of Transportation Engineers (ITE) Design Standards, and Traffic Manuals.

The purpose of this background work was to develop current road standards that were based on acceptable standards (not arbitrary) and that reflected the necessary improvements for our population, transportation, and climate conditions.

Staff findings were that no single set of standards could be adopted that fit all the County's roads-in-subdivisions needs for the following variety of reasons: the set of standards applied to far more urbanized areas of higher populations and different climate; standards were variable, and in the absence of having a county engineer, determining individual road standards for each subdivision could be difficult for the planning staff; or finally, that county experience had shown that a lesser or greater standard was justified or necessary.

The following charts show the county street and road design standards. Discussion follows to explain and justify each of the standards.

TABLE 5  
Local Street Design Standards\*

Reference									
a. Terrain Classification	Level			Rolling			Hilly		
b. Development Density	Low	Medium	High	Low	Medium	High	Low	Medium	High
c. Right-of-Way width (feet)	50	60	60	60	60	60	60	60	60
d. Improved Width (feet)(min.)	24	24	28	24	24	28	24	24	28
e. Type of Curb (if required)									
(V = vertical face; R = roll type; O = none)	O/R	V	V	V	V	V	V	V	V
f. Sidewalks and Bicycle Path (feet) (if required)	0	4-6		0	4-6		0	4-6	
g. Sidewalk Distance from curb or edge of road (ft.) (if required)	-	6	6	-	6	6	-	6	6
h. Minimum Sight Distance (ft.)	200			150			110		
i. Maximum Grade	6%			8%			11%		
	(not to exceed 500 ft.)								
j. Maximum Cul-de-Sac Length (feet)	1,000	700	700	1,000	700	700	1,000	700	700
k. Minimum Cul-de-Sac Radius (right-of-way)(feet)	50								
a. improved surface (feet)	40								
l. Design Speed (MPH)	30			25			20		
m. Minimum Centerline Radius of curves (feet)	250			175			110		
n. New Bridges									
a. width	28	28	36	28	28	32	28	28	32
b. design load	H-20								
c. vertical clearance (ft.)	14.5'								

\*The following are minimum design standards.

a./ level - grade range of 0 to 8 percent  
rolling - 8.1 to 15 percent  
hilly - over 15 percent

d./ Where parking is required, add  
eight foot parking lane per  
parking lane.

b./ development density  
low - 2 or less d.u./acre  
medium - 2.1 - 6.0 d.u./acre  
high - over 6 d.u./acre

- a. Terrain Classification - Source: ITE (1984):  
level - grade range of 0 to 8 percent  
rolling - grade range of 8.1 to 15 percent  
hilly - grade range of over 15 percent
- b. Development density - Source: ITE  
low - 2 or less dwelling units per acre  
medium - 2.1 to 6.0 dwelling units per acre  
high - over 6 dwelling units per acre
- c. Right-of-way width (feet) - Source: ITE  
A 60-foot basic right-of-way is recommended except for low density subdivisions in level terrain. The right-of-way must be capable of containing improved width of roadway, shoulders, sidewalks, utilities, grading, drainage, and retention of snow plowed from the roadways.
- d. Improved width (feet)(min.) Source: AASHTO (1984)<sup>1</sup>  
The ITE standards provide a range of improved widths, leaving the final determination to the discretion of the planner. Therefore, since ITE refers to AASHTO Standards for solutions to specific problems, staff did the same. The assumptions made were that ADT (average daily trips) in low-to medium-density subdivisions' streets would be less than 400 and designed for speeds of 20-30 mph. High density subdivisions' roads are assumed to carry over 400 ADT at design speeds of 20-30 mph. The resulting widths are basically 2-ten foot driving lanes, with the width of graded shoulder varying from 2-feet on each side for low-medium density and 4-feet on each side for high density subdivisions. In addition, please note that these are minimums. If on-street parking is required, improved roadway width is increased accordingly at 8-feet per parking lane.
- e. Type of curb - Source: ITE  
A lengthy discussion of curb types, and their advantages and disadvantages, is given by ITE. Curb types are a guideline where paving is required, not a standard for all county roads.
- f. Sidewalks and bicycle paths (feet) - Source: ITE  
These are guidelines rather than standards since pedestrian and cycling facilities are not consistently required. Where they are required, the ITE standard should prevail. ITE standards state that in low density subdivisions, travel to elementary schools is often by bus, and to other destinations, by car, generating less need for sidewalks. Where pedestrian access is in close proximity to schools, parks, shopping areas or other community attractions, sidewalks should be provided.

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<sup>1</sup>Recommended Guidelines for Subdivision Streets, Institute of Transportation Engineers, 1984

<sup>2</sup>A Policy on Geometric Design of Highways and Streets, American Association of State Highway and Transportation Officials, 1984

- g. Sidewalk distance from curb face - Source: ITE  
The setback is primarily provided for safety reasons, but secondarily accommodates snow storage.
- h. Minimum sight distance (feet) - Source: ITE and AASHTO  
Design values for safe shopping sight distance are calculated for both vertical and horizontal curves, for wet pavement. These design distances do not vary between ITE and AASHTO.
- i. Maximum grade - Source: ITE and county road personnel  
According to the ITE, maximum permissible grades represent a compromise between construction costs and traffic safety. The ITE standards suggest a range of from 4 percent grades for level to 15 percent for hilly terrain. However, they also suggest that areas having severe winter icing conditions may want to adopt a maximum grade of 8 percent for all types of design conditions. The current county regulations and others we compared them to in Montana allow for a maximum 6 percent grade in level conditions. The 8 percent maximum grade proposed for rolling condition takes into account the terrain range of up to 15 percent grades and the ITE suggested standard. The maximum 11 percent grade not to exceed 500 feet in length proposed for hilly terrain is unchanged from the current regulations and is proposed because county road personnel confirm that road grading and snow removal equipment can negotiate the grade and that it has not posed a significant safety problem. (This grade is similar to the steep section of Broadway.)
- j. Maximum cul-de-sac length (feet) - Source: ITE  
A maximum 1,000 foot cul-de-sac is recommended in low density subdivisions based on a typical subdivision lay-out of 100-foot lot widths that would allow a total of about 20 homes along the cul-de-sac. For typical single-family subdivisions, each home has been found to generate an average of about 10 trips per day, for a total of 200 ADT. In higher density subdivisions, a 70-foot lot width is assumed, again carrying about 200 ADT at a maximum 700-foot cul-de-sac length. Both capacity of the street to safely carry peak hour traffic and safe access for emergency vehicular traffic were considerations in developing this standard. The County Fire Chief and Surveyor concurred with the suggested cul-de-sac lengths.
- k. Minimum cul-de-sac radius (right-of-way) (feet) Source: ITE  
The recommended minimum right-of-way radius for circular cul-de-sac design is 50 feet. Since the minimum width must accommodate emergency vehicles, the improved width is suggested at a 40-foot minimum, large enough to accommodate a small piece of fire apparatus. Greater improved areas (than 40 feet) create large expanses of open surface that may be unattractive. Under conditions where blocks are short, the number of dwellings small, or a future road extension contemplated, a hammerhead or "tee" turnaround may be considered. Lots are usually not platted at the ends of these alternate turnarounds.
1. Design speed (MPH) - Source: ITE  
Design speeds are based on the level of service of the road, the economies of construction and the progressive difficulty of the terrain. Low design speeds are generally applicable to winding roads in steeper terrain while higher speeds are applicable to a higher level of service in level terrain.

m. Minimum centerline radius of curves (feet) - Source: ITE

n. New bridges - Source: AASHTO

Suggested bridge widths are the same width as conventional improved roadway surface for the specific condition, plus 2 feet on each side for guardrails. The design loads and vertical clearances are AASHTO standards allowing for highway loads (large trucks), and resurfacing of roads, respectively.

## COLLECTOR STREETS AND ROADS

Collector streets serve the dual functions of distributing traffic between local roads and arterials, and providing access to abutting properties. Therefore, higher traffic volumes and higher speeds are the norm. Collectors in the county would include Sierra Drive and Valley Drive and would have an average ADT of 1500 - 3500. All collector streets shall be paved. (See discussion page K-9).

It is assumed that very few collector streets will be addressed under these regulations -- the majority of proposals will include only local streets.

TABLE 6  
Collector Street Design Standards\*

Reference									
a. Terrain Classification	Level			Rolling			Hilly		
b. Development Density	Low	Medium	High	Low	Medium	High	Low	Medium	High
c. Right-of-Way Width (feet)	60	60	70	60	60	70	60	60	70
d. Pavement Width (feet)	36	36	40	36	36	40	36	36	40
e. Type of Curb(if required)	Vertical Face								
f. Sidewalk Width(feet)(if req'd.)	4 to 6								
g. Sidewalk Distance from curb or edge of road(feet)(if req'd)	10								
h. Minimum Sight Distance (feet)	250			200			150		
i. Maximum Grade	6%			8%			11%		
j. Design Speed(MPH)	35			30			25		
k. Minimum Centerline Radius (feet)	350			250			175		
l. New bridges									
a. width	40	40	44	40	40	44	40	40	44
b. design load	H-20								
c. Vertical clearance (feet)	14.5								

\*The following are minimum standards.

A major collector, over 3500 ADT is a road that could be put on the Federal Aid Primary (FAP) system and designed to MDCH standards.

- |   |   |  |
|---|---|--|
| <p>a./ level - grade range of</p> <p>rolling -</p> <p>hilly -</p> | <p>0 to 8 percent</p> <p>8.1 to 15 percent</p> <p>over 15 percent</p> | <p>d./ Paving will be required on all collector streets. Where parking is required, add 8 feet per parking lane.</p> |
|---|---|--|
- b./ development density
- |          |                     |
|----------|---------------------|
| low -    | 2 or less d.u./acre |
| medium - | 2.1 - 6 d.u./acre   |
| high -   | over 6 d.u./acre    |



- a. Terrain classification - Source: ITE  
See previous discussion
- b. Development density - Source: ITE  
See previous discussion
- c. Right-of-way width (feet) - Source: ITE and county personnel  
The ITE recommends a right-of-way width of 70 feet to provide for "wider pavement and greater distance from sidewalk to curb." Since so few of the county's collectors have sidewalks at all, the additional 10-foot requirement is felt to be unnecessary, except in high density areas, where it is assumed that population densities could warrant pedestrian/bicycle access to points of interest.
- d. Improved width feet - Source: ITE  
The wider improved width provides space for one lane of traffic in each direction plus accommodation for curb parking or pull off in case of emergency. By prohibiting parking where appropriate, it provides an added turning lane where needed, such as at intersections (e.g. Montana and Sierra Road).
- e. Type of curb - Source: ITE  
See previous discussion. Except vertical curb only is recommended for reasons of safety and drainage control.
- f. Sidewalk width - Source: ITE  
The ITE recommends sidewalks along all collectors. Again, this is a guideline, not a standard since sidewalks are rarely required along collectors in the county.
- g. Sidewalk distance from curb or edge of road - Source: ITE  
Ten feet is recommended to retain a setback of residential property from the street and to accommodate increased snow storage from wider improved street widths.
- h. Minimum sight distance - Source: ITE  
Stopping sight distance is increased to conform to the higher design speeds.
- i. Maximum grades - Source: ITE and county personnel  
See previous discussion.
- j. Design speed (MPH) - Source: ITE  
Increases in design speed of 5 MPH above local streets are recommended by ITE.
- k. Minimum centerline radius (feet) - Source: ITE  
Increases in the minimum curvatures are predicated upon increased design speeds.

## ARTERIAL STREETS AND OTHER DESIGN SPECIFICATIONS

Staff would rarely be involved in design of an arterial street in the county. An arterial would be presumed to carry in excess of 3500 ADT and would not likely be included in a subdivision proposal. It is further assumed that most, if not all arterials in the county are on the Federal Aid Primary (FAD) system, for which there is already a set of standards. Therefore, no arterial street design standards are included herein.

Where these suggested standards leave unanswered questions, it is recommended that AASHTO or ITE guidelines be relied upon for clarification, such as for street lighting, traffic control or off-street parking.

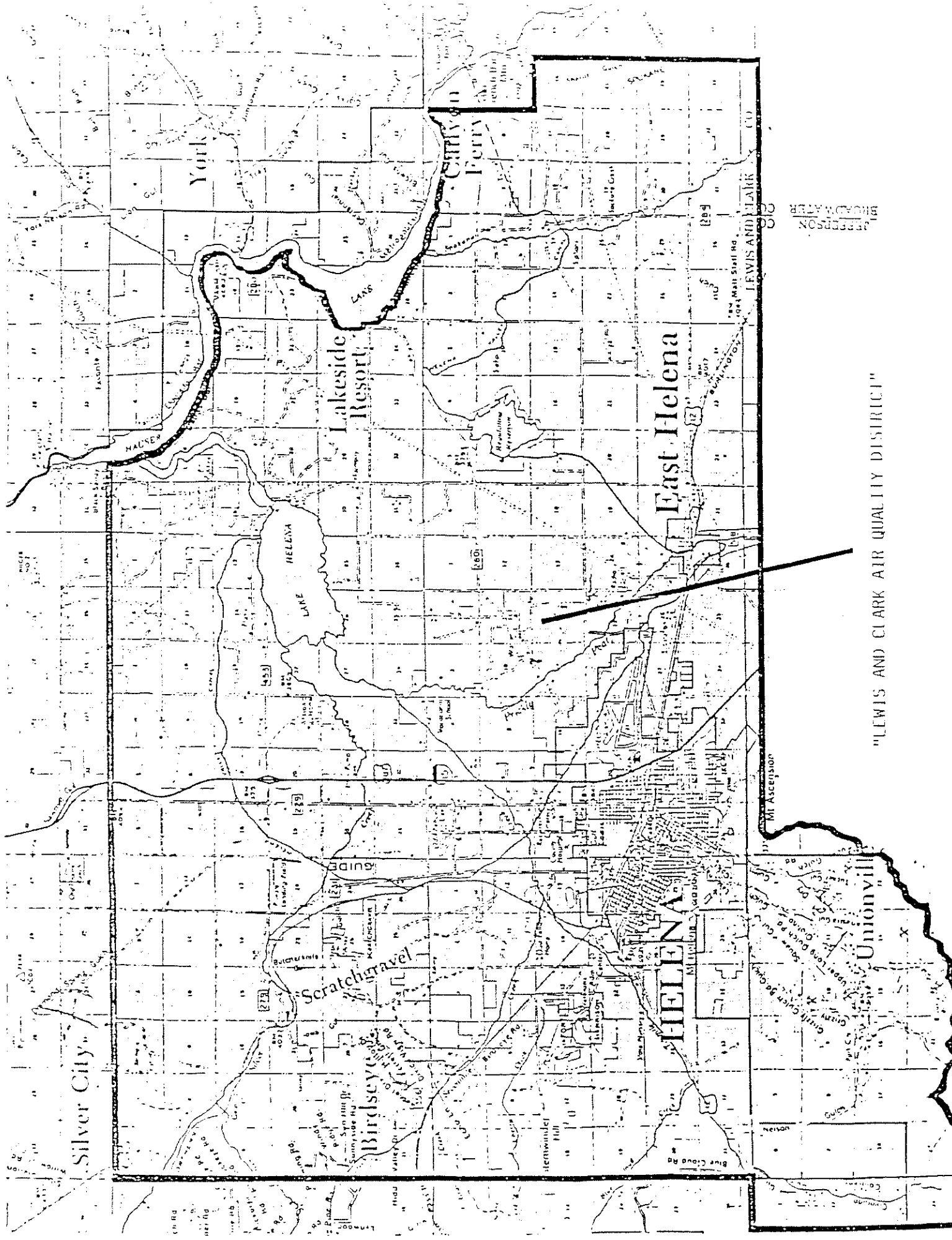
## PAVING REQUIREMENT

Proposed subdivision roads in Lewis and Clark County designed to serve traffic volumes of 400 average daily trips (ADT) over a 20 year design life shall be required to be paved within the boundaries of the Lewis and Clark Air Quality District (see attached map). This standard is required to assure adequate access to lots by residents and emergency vehicles and to reduce the impacts of fugitive dust in the Helena Valley area.

Estimates of ADT are based on national standards contained in the Recommended Guidelines for Subdivision Streets, ITE, 1984. For residential subdivisions, the trip generation figure per household is 10 ADT.

Paving requirements shall be tied to the type of subdivision (e.g. residential, commercial), number of lots, density per acre and rate of development only to the extent that the design life of a road will reach or exceed 400 ADT. In other words, though the density of development may be three units per acre, if 400 ADT will not be reached on the road serving the lots, paving will not be required. If a development is to be phased, and 400 ADT will be reached at a second or subsequent phase, paving shall be required at that phase when 400 ADT will be reached.

It is assumed that local streets will carry primarily residential traffic. Collector streets are assumed to carry heavier vehicles, creating the need for greater load bearing capacity on collector streets. The type of paving required will be based on the choice between low-front-end cost/higher maintenance, and higher front-end cost/lower maintenance made by the developer with assistance from the county surveyor and planning department. At a minimum, paving shall consist of 2 coats of chip seal, consistent with the requirements set forth in the Specifications for County Roads, Section 6. (Bituminous Surface Treatment), and Appendix (Typical Section No. 4). In any case, all paving alternatives shall comply with the Specifications.



JEFFERSON  
BROADWAY

LEWIS AND CLARK

"LEWIS AND CLARK AIR QUALITY DISTRICT"

NOTICE OF PUBLIC  
HEARINGS

The Lewis and Clark Board of County Commissioners will hold two public hearings both on Tuesday September 26, 1995, one at 9:00 a.m. and one at 7:00 p.m. in the City Commission Chambers on the third floor of the City-County Building, 316 North Park Avenue, Helena, Montana. The Board will consider an amendment to the Lewis and Clark County Subdivision Regulations reflecting changes made to the Montana Subdivision and Platting Act during the 1995 legislative session. Other amendments are also proposed to clarify the review process and requirements for development. Revisions are proposed for sections on general provisions, administrative provisions, procedures for major and minor subdivisions, amended plats, mobile home parks, planned unit developments, recreational vehicle parks, design and improvement standards. Revisions are also proposed for the related appendices. Copies of the proposed changes will be available for review at local libraries and at the County Planning Department, P.O. Box 1725, Helena, MT 59624. Phone: 447-0374. Michael A. Murray, Chairman  
LEWIS AND CLARK  
COUNTY  
COMMISSIONERS  
September 10, 1995

**AFFIDAVIT OF PUBLICATION**  
**STATE OF MONTANA,**  
**County of Lewis & Clark,**

Liz Baldwin

Being duly sworn, deposes and says:

That she is the principal clerk of the Independent Record, a newspaper of general circulation published daily in the City of Helena, in the County of Lewis & Clark State of Montana, and has charge of the advertisements thereof.  
That the Notice of Public Hearing

a true copy of which is hereto annexed, was published in said newspaper on the following dates: viz:

September 10, 1995

making in all 1 publication.

Liz Baldwin

Subscribed and sworn to before me this 12th  
day of September, 1995

Max Duerksen

NOTARY PUBLIC for the State of Montana  
Residing at Helena, Montana  
My commission expires 9-7-95

(NOTARIAL SEAL.)



